

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1810

Introduced by Assembly Member Feuer

February 10, 2010

An act to amend Section 21628.2 of the Business and Professions Code, and to amend Sections 11106, 12001, 12021.3, 12071, 12072, 12073, 12076, 12077, 12077.5, 12078, and 12082 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1810, as amended, Feuer. Firearms.

Existing law generally regulates the transfer of firearms and provides for retaining specified information regarding firearm transfers by the Department of Justice. Existing law establishes different requirements regarding reportable information regarding handguns versus firearms that are not handguns.

This bill would conform those provisions so that the transfers and information reporting and retention requirements for handguns and firearms other than handguns are the same.

Existing law, subject to exceptions, prohibits peace officers, Department of Justice employees, and the Attorney General from retaining or compiling certain information relating to transactions regarding firearms that are not handguns, as specified. Violation of these provisions is a misdemeanor.

This bill would provide that those provisions become inoperative on July 1, 2012, and thereafter would require compilation and retention of the information, as specified.

Existing law requires a personal handgun importer to report certain information relative to bringing a handgun into the state, as specified. Violation of these provisions is a misdemeanor.

This bill would, commencing July 1, 2012, recast “personal handgun importer” to be “personal firearm importer,” as defined, and would expand the reporting requirements to apply to the importation of firearms that are not handguns.

By expanding these provisions, the violation of which is a crime, this bill would impose a state-mandated local program.

Under existing law, the Department of Justice requires firearms dealers to keep a register or record of electronic or telephonic transfers of information pertaining to firearms transactions, as specified. Existing law exempts from these requirements certain transactions involving firearms that are not handguns.

This bill would provide that those exemptions become inoperative on July 1, 2012.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21628.2 of the Business and Professions
- 2 Code is amended to read:
- 3 21628.2. (a) For purposes of this section, the “department”
- 4 shall mean the Department of Justice.
- 5 (b) Every secondhand dealer described in Section 21626 shall,
- 6 in a format prescribed by the department, and on the day of the
- 7 transaction, electronically report to the department each firearm
- 8 purchased, taken in trade, taken in pawn, accepted for sale on
- 9 consignment, or accepted for auctioning. The secondhand dealer
- 10 shall retain a copy of the report submitted to the department and
- 11 make it available for inspection by the department, any peace

1 officer, or any local law enforcement employee who is authorized
2 by Section 12071 of the Penal Code to inspect a firearms
3 transaction record.

4 (c) The department may retain secondhand dealer reports to
5 determine whether a firearm taken in by a secondhand dealer has
6 been reported lost or stolen. If the department's records indicate
7 that the firearm is lost or stolen, the department shall notify the
8 law enforcement agency that entered the information in the
9 department's records and a law enforcement agency with
10 jurisdiction over the secondhand dealer's business location about
11 the status of the firearm. The Dealers' Record of Sale shall be
12 retained by the department pursuant to Section 11106 of the Penal
13 Code.

14 (d) All information in the secondhand dealer report of each
15 firearm described in subdivision (a) shall be electronically provided
16 by the department to the secure mailbox of the local law
17 enforcement agency described in Section 21630 within one working
18 day of receipt by the department.

19 (e) This section shall become operative on July 1, 2010.

20 SEC. 2. Section 11106 of the Penal Code is amended to read:

21 11106. (a) In order to assist in the investigation of crime, the
22 prosecution of civil actions by city attorneys pursuant to paragraph
23 (3) of subdivision (c), the arrest and prosecution of criminals, and
24 the recovery of lost, stolen, or found property, the Attorney General
25 shall keep and properly file a complete record of all copies of
26 fingerprints, copies of licenses to carry firearms issued pursuant
27 to Section 12050, information reported to the Department of Justice
28 pursuant to Section 12053, dealers' records of sales of firearms,
29 reports provided pursuant to Section 12072 or 12078, forms
30 provided pursuant to Section 12084, as that section read prior to
31 being repealed by the act that amended this section, reports
32 provided pursuant to Section 12071 that are not dealers' records
33 of sales of firearms, and reports of stolen, lost, found, pledged, or
34 pawned property in any city or county of this state, and shall, upon
35 proper application therefor, furnish this information to the officers
36 referred to in Section 11105.

37 (b) (1) Except as provided in subdivision (d), the Attorney
38 General shall not retain or compile any information from reports
39 filed pursuant to subdivision (a) of Section 12078 for firearms that
40 are not handguns, from forms submitted pursuant to Section 12084,

1 as that section read prior to being repealed by the act that amended
2 this section, for firearms that are not handguns, or from dealers'
3 records of sales for firearms that are not handguns. All copies of
4 the forms submitted, or any information received in electronic
5 form, pursuant to Section 12084, as that section read prior to being
6 repealed by the act that amended this section, for firearms that are
7 not handguns, or of the dealers' records of sales for firearms that
8 are not handguns shall be destroyed within five days of the
9 clearance by the Attorney General, unless the purchaser or
10 transferor is ineligible to take possession of the firearm. All copies
11 of the reports filed, or any information received in electronic form,
12 pursuant to subdivision (a) of Section 12078 for firearms that are
13 not handguns shall be destroyed within five days of the receipt by
14 the Attorney General, unless retention is necessary for use in a
15 criminal prosecution.

16 (2) A peace officer, the Attorney General, a Department of
17 Justice employee designated by the Attorney General, or any
18 authorized local law enforcement employee shall not retain or
19 compile any information from a firearms transaction record, as
20 defined in paragraph (5) of subdivision (c) of Section 12071, for
21 firearms that are not handguns unless retention or compilation is
22 necessary for use in a criminal prosecution or in a proceeding to
23 revoke a license issued pursuant to Section 12071.

24 (3) A violation of this subdivision is a misdemeanor.

25 (4) This subdivision shall become inoperative on July 1, 2012.

26 (c) (1) The Attorney General shall permanently keep and
27 properly file and maintain all information reported to the
28 Department of Justice pursuant to Sections 12071, 12072, 12078,
29 12082, and former Section 12084 or any other law, as to handguns,
30 and commencing July 1, 2012, as to all firearms, and maintain a
31 registry thereof.

32 (2) The registry shall consist of all of the following:

33 (A) The name, address, identification of, place of birth (state
34 or country), complete telephone number, occupation, sex,
35 description, and all legal names and aliases ever used by the owner
36 or person being loaned the particular firearm as listed on the
37 information provided to the department on the Dealers' Record of
38 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
39 in former Section 12084, or reports made to the department
40 pursuant to Section 12078 or any other law.

1 (B) The name and address of, and other information about, any
2 person (whether a dealer or a private party) from whom the owner
3 acquired or the person being loaned the particular firearm and
4 when the firearm was acquired or loaned as listed on the
5 information provided to the department on the Dealers' Record of
6 Sale, the LEFT, or reports made to the department pursuant to
7 Section 12078 or any other law.

8 (C) Any waiting period exemption applicable to the transaction
9 which resulted in the owner of or the person being loaned the
10 particular firearm acquiring or being loaned that firearm.

11 (D) The manufacturer's name if stamped on the firearm, model
12 name or number if stamped on the firearm, and, if applicable, the
13 serial number, other number (if more than one serial number is
14 stamped on the firearm), caliber, type of firearm, if the firearm is
15 new or used, barrel length, and color of the firearm, or, if the
16 firearm is not a handgun and does not have a serial number or any
17 identification number or mark assigned to it, that shall be noted.

18 (3) Information in the registry referred to in this subdivision
19 shall, upon proper application therefor, be furnished to the officers
20 referred to in Section 11105, to a city attorney prosecuting a civil
21 action, solely for use in prosecuting that civil action and not for
22 any other purpose, or to the person listed in the registry as the
23 owner or person who is listed as being loaned the particular firearm.

24 (4) If any person is listed in the registry as the owner of a firearm
25 through a Dealers' Record of Sale prior to 1979, and the person
26 listed in the registry requests by letter that the Attorney General
27 store and keep the record electronically, as well as in the record's
28 existing photographic, photostatic, or nonerasable optically stored
29 form, the Attorney General shall do so within three working days
30 of receipt of the request. The Attorney General shall, in writing,
31 and as soon as practicable, notify the person requesting electronic
32 storage of the record that the request has been honored as required
33 by this paragraph.

34 (d) (1) Any officer referred to in paragraphs (1) to (6), inclusive,
35 of subdivision (b) of Section 11105 may disseminate the name of
36 the subject of the record, the number of the firearms listed in the
37 record, and the description of any firearm, including the make,
38 model, and caliber, from the record relating to any firearm's sale,
39 transfer, registration, or license record, or any information reported
40 to the Department of Justice pursuant to Section 12021.3, 12053,

1 12071, 12072, 12077, 12078, 12082, or 12285, if the following
2 conditions are met:

3 (A) The subject of the record has been arraigned for a crime in
4 which the victim is a person described in subdivisions (a) to (f),
5 inclusive, of Section 6211 of the Family Code and is being
6 prosecuted or is serving a sentence for the crime, or the subject of
7 the record is the subject of an emergency protective order, a
8 temporary restraining order, or an order after hearing, which is in
9 effect and has been issued by a family court under the Domestic
10 Violence Protection Act set forth in Division 10 (commencing
11 with Section 6200) of the Family Code.

12 (B) The information is disseminated only to the victim of the
13 crime or to the person who has obtained the emergency protective
14 order, the temporary restraining order, or the order after hearing
15 issued by the family court.

16 (C) Whenever a law enforcement officer disseminates the
17 information authorized by this subdivision, that officer or another
18 officer assigned to the case shall immediately provide the victim
19 of the crime with a “Victims of Domestic Violence” card, as
20 specified in subparagraph (H) of paragraph (9) of subdivision (c)
21 of Section 13701.

22 (2) The victim or person to whom information is disseminated
23 pursuant to this subdivision may disclose it as he or she deems
24 necessary to protect himself or herself or another person from
25 bodily harm by the person who is the subject of the record.

26 SEC. 3. Section 12001 of the Penal Code is amended to read:

27 12001. (a) (1) As used in this title, the terms “pistol,”
28 “revolver,” and “firearm capable of being concealed upon the
29 person” shall apply to and include any device designed to be used
30 as a weapon, from which is expelled a projectile by the force of
31 any explosion, or other form of combustion, and that has a barrel
32 less than 16 inches in length. These terms also include any device
33 that has a barrel 16 inches or more in length which is designed to
34 be interchanged with a barrel less than 16 inches in length.

35 (2) As used in this title, the term “handgun” means any “pistol,”
36 “revolver,” or “firearm capable of being concealed upon the
37 person.”

38 (b) As used in this title, “firearm” means any device, designed
39 to be used as a weapon, from which is expelled through a barrel,

1 a projectile by the force of any explosion or other form of
2 combustion.

3 (c) As used in Sections 12021, 12021.1, 12070, 12071, 12072,
4 12073, 12078, 12101, and 12801 of this code, and Sections 8100,
5 8101, and 8103 of the Welfare and Institutions Code, the term
6 “firearm” includes the frame or receiver of the weapon.

7 (d) For the purposes of Sections 12025 and 12031, the term
8 “firearm” also shall include any rocket, rocket propelled projectile
9 launcher, or similar device containing any explosive or incendiary
10 material whether or not the device is designed for emergency or
11 distress signaling purposes.

12 (e) For purposes of Sections 12070, 12071, and paragraph (8)
13 of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section
14 12072, the term “firearm” does not include an unloaded firearm
15 that is defined as an “antique firearm” in Section 921(a)(16) of
16 Title 18 of the United States Code.

17 (f) Nothing shall prevent a device defined as a “handgun,”
18 “pistol,” “revolver,” or “firearm capable of being concealed upon
19 the person” from also being found to be a short-barreled shotgun
20 or a short-barreled rifle, as defined in Section 12020.

21 (g) For purposes of Sections 12551 and 12552, the term “BB
22 device” means any instrument that expels a projectile, such as a
23 BB or a pellet, not exceeding 6mm caliber, through the force of
24 air pressure, gas pressure, or spring action, or any spot marker gun.

25 (h) As used in this title, “wholesaler” means any person who is
26 licensed as a dealer pursuant to Chapter 44 (commencing with
27 Section 921) of Title 18 of the United States Code and the
28 regulations issued pursuant thereto who sells, transfers, or assigns
29 firearms, or parts of firearms, to persons who are licensed as
30 manufacturers, importers, or gunsmiths pursuant to Chapter 44
31 (commencing with Section 921) of Title 18 of the United States
32 Code, or persons licensed pursuant to Section 12071, and includes
33 persons who receive finished parts of firearms and assemble them
34 into completed or partially completed firearms in furtherance of
35 that purpose.

36 “Wholesaler” shall not include a manufacturer, importer, or
37 gunsmith who is licensed to engage in those activities pursuant to
38 Chapter 44 (commencing with Section 921) of Title 18 of the
39 United States Code or a person licensed pursuant to Section 12071
40 and the regulations issued pursuant thereto. A wholesaler also does

1 not include those persons dealing exclusively in grips, stocks, and
2 other parts of firearms that are not frames or receivers thereof.

3 (i) As used in Section 12071 or 12072, “application to purchase”
4 means any of the following:

5 (1) The initial completion of the register by the purchaser,
6 transferee, or person being loaned the firearm as required by
7 subdivision (b) of Section 12076.

8 (2) The initial completion and transmission to the department
9 of the record of electronic or telephonic transfer by the dealer on
10 the purchaser, transferee, or person being loaned the firearm as
11 required by subdivision (c) of Section 12076.

12 (j) For purposes of Section 12023, a firearm shall be deemed
13 to be “loaded” whenever both the firearm and the unexpended
14 ammunition capable of being discharged from the firearm are in
15 the immediate possession of the same person.

16 (k) For purposes of Sections 12021, 12021.1, 12025, 12070,
17 12072, 12073, 12078, 12101, and 12801 of this code, and Sections
18 8100, 8101, and 8103 of the Welfare and Institutions Code,
19 notwithstanding the fact that the term “any firearm” may be used
20 in those sections, each firearm or the frame or receiver of the same
21 shall constitute a distinct and separate offense under those sections.

22 (l) For purposes of Section 12020, a violation of that section as
23 to each firearm, weapon, or device enumerated therein shall
24 constitute a distinct and separate offense.

25 (m) Each application that requires any firearms eligibility
26 determination involving the issuance of any license, permit, or
27 certificate pursuant to this title shall include two copies of the
28 applicant’s fingerprints on forms prescribed by the Department of
29 Justice. One copy of the fingerprints may be submitted to the
30 United States Federal Bureau of Investigation.

31 (n) As used in this chapter, until July 1, 2012, any reference to
32 the term “personal firearm importer” shall be deemed to mean
33 “personal handgun importer” and, on and after July 1, 2012, any
34 reference to the term “personal handgun importer” shall be deemed
35 to mean “personal firearm importer.” A “personal handgun
36 importer,” until July 1, 2012, and commencing July 1, 2012, a
37 “personal firearm importer” means an individual who meets all of
38 the following criteria:

39 (1) He or she is not a person licensed pursuant to Section 12071.

1 (2) He or she is not a licensed manufacturer of firearms pursuant
2 to Chapter 44 (commencing with Section 921) of Title 18 of the
3 United States Code.

4 (3) He or she is not a licensed importer of firearms pursuant to
5 Chapter 44 (commencing with Section 921) of Title 18 of the
6 United States Code and the regulations issued pursuant thereto.

7 (4) He or she is the owner of a firearm.

8 (5) He or she acquired that firearm outside of California.

9 (6) He or she moves into this state on or after January 1, 1998,
10 in the case of a handgun, or in the case of a firearm that is not a
11 handgun, on or after July 1, 2012, as a resident of this state.

12 (7) He or she intends to possess that handgun within this state
13 on or after January 1, 1998, or in the case of a firearm that is not
14 a handgun, he or she intends to possess that firearm within this
15 state on or after July 1, 2012.

16 (8) The firearm was not delivered to him or her by a person
17 licensed pursuant to Section 12071 who delivered that firearm
18 following the procedures set forth in Section 12071 and subdivision
19 (c) of Section 12072.

20 (9) He or she, while a resident of this state, had not previously
21 reported his or her ownership of that firearm to the Department of
22 Justice in a manner prescribed by the department that included
23 information concerning him or her and a description of the firearm.

24 (10) The firearm is not a firearm that is prohibited by subdivision
25 (a) of Section 12020.

26 (11) The firearm is not an assault weapon, as defined in Section
27 12276 or 12276.1.

28 (12) The firearm is not a machinegun, as defined in Section
29 12200.

30 (13) The person is 18 years of age or older.

31 (o) For purposes of paragraph (6) of subdivision (n):

32 (1) Except as provided in paragraph (2), residency shall be
33 determined in the same manner as is the case for establishing
34 residency pursuant to Section 12505 of the Vehicle Code.

35 (2) In the case of members of the Armed Forces of the United
36 States, residency shall be deemed to be established when he or she
37 was discharged from active service in this state.

38 (p) As used in this code, “basic firearms safety certificate”
39 means a certificate issued by the Department of Justice pursuant

1 to Article 8 (commencing with Section 12800) of Chapter 6 of
2 Title 2 of Part 4, prior to January 1, 2003.

3 (q) As used in this code, “handgun safety certificate” means a
4 certificate issued by the Department of Justice pursuant to Article
5 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
6 4, as that article is operative on or after January 1, 2003.

7 (r) As used in this title, “gunsmith” means any person who is
8 licensed as a dealer pursuant to Chapter 44 (commencing with
9 Section 921) of Title 18 of the United States Code and the
10 regulations issued pursuant thereto, who is engaged primarily in
11 the business of repairing firearms, or making or fitting special
12 barrels, stocks, or trigger mechanisms to firearms, or the agent or
13 employee of that person.

14 (s) As used in this title, “consultant-evaluator” means a
15 consultant or evaluator who, in the course of his or her profession
16 is loaned firearms from a person licensed pursuant to Chapter 44
17 (commencing with Section 921) of Title 18 of the United States
18 Code and the regulations issued pursuant thereto, for his or her
19 research or evaluation, and has a current certificate of eligibility
20 issued to him or her pursuant to Section 12071.

21 SEC. 4. Section 12021.3 of the Penal Code is amended to read:

22 12021.3. (a) (1) Any person who claims title to any firearm
23 that is in the custody or control of a court or law enforcement
24 agency and who wishes to have the firearm returned to him or her
25 shall make application for a determination by the Department of
26 Justice as to whether he or she is eligible to possess a firearm. The
27 application shall include the following:

28 (A) The applicant’s name, date and place of birth, gender,
29 telephone number, and complete address.

30 (B) Whether the applicant is a United States citizen. If the
31 applicant is not a United States citizen, he or she shall also provide
32 his or her country of citizenship and his or her alien registration
33 or I-94 number.

34 (C) If the firearm is a handgun, and commencing July 1, 2012,
35 for any firearm, the firearm’s make, model, caliber, barrel length,
36 handgun type, country of origin, and serial number, provided,
37 however, that if the firearm is not a handgun and does not have a
38 serial number, identification number, or identification mark
39 assigned to it, a place on the application to note that fact.

(D) For residents of California, the applicant's valid California driver's license number or valid California identification card number issued by the Department of Motor Vehicles. For nonresidents of California, a copy of the applicant's military identification with orders indicating that the individual is stationed in California, or a copy of the applicant's valid driver's license from the state of residence, or a copy of the applicant's state identification card from the state of residence. Copies of the documents provided by non-California residents shall be notarized.

(E) The name of the court or law enforcement agency holding the firearm.

(F) The signature of the applicant and the date of signature.

(G) Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the application, including any notarized information pursuant to subparagraph (D) of paragraph (1) of subdivision (a) shall be guilty of a misdemeanor.

(2) A person who owns a firearm that is in the custody of a court or law enforcement agency and who does not wish to obtain possession of the firearm, and the firearm is an otherwise legal firearm, and the person otherwise has right to title of the firearm, shall be entitled to sell or transfer title of the firearm to a licensed dealer as defined in Section 12071.

(3) Any person furnishing a fictitious name or address, or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the application, including any notarized information pursuant to subparagraph (D) of paragraph (1) of subdivision (a) is punishable as a misdemeanor.

(b) No law enforcement agency or court that has taken custody of any firearm may return the firearm to any individual unless the following requirements are satisfied:

(1) That individual presents to the agency or court notification of a determination by the department pursuant to subdivision (e) that the person is eligible to possess firearms.

(2) If the agency or court has direct access to the Automated Firearms System, the agency or court has verified that the firearm is not listed as stolen pursuant to Section 11108, and that the

1 firearm has been recorded in the Automated Firearms System in
2 the name of the individual who seeks its return.

3 (3) If the firearm has been reported lost or stolen pursuant to
4 Section 11108, a law enforcement agency shall notify the owner
5 or person entitled to possession pursuant to Section 11108.5.
6 However, that person shall provide proof of eligibility to possess
7 a firearm pursuant to subdivision (e). Nothing in this subdivision
8 shall prevent the local law enforcement agency from charging the
9 rightful owner or person entitled to possession of the firearm the
10 fees described in subdivision (j). However, individuals who are
11 applying for a background check to retrieve a firearm that comes
12 into the custody or control of the court or law enforcement agency
13 pursuant to subdivision (a) shall be exempt from the fees in
14 subdivision (c) provided that the court or agency determines the
15 firearm was reported stolen to a law enforcement agency prior to
16 the date the firearm came into custody or control of the court or
17 law enforcement agency or within five business days of the firearm
18 being stolen from its owner. The court or agency shall notify the
19 Department of Justice of this fee exemption in a manner prescribed
20 by the department.

21 (c) The Department of Justice shall establish a fee of twenty
22 dollars (\$20) per request for return of a firearm, plus a three-dollar
23 (\$3) charge for each additional firearm being processed as part of
24 the request to return a firearm, to cover its costs for processing
25 firearm clearance determinations submitted pursuant to this section.
26 The fees shall be deposited into the Dealers' Record of Sale Special
27 Account. The department may increase the fee by using the
28 California Consumer Price Index as compiled and reported by the
29 California Department of Industrial Relations to determine an
30 annual rate of increase. Any fee increase shall be rounded to the
31 nearest dollar.

32 (d) When the Department of Justice receives a completed
33 application pursuant to subdivision (a) accompanied with the fee
34 required pursuant to subdivision (c), it shall conduct an eligibility
35 check of the applicant to determine whether the applicant is eligible
36 to possess firearms.

37 (e) (1) If the department determines that the applicant is eligible
38 to possess the firearm, the department shall provide the applicant
39 with written notification that includes the following:

40 (A) The identity of the applicant.

1 (B) A statement that the applicant is eligible to possess a firearm.

2 (C) A description of the firearm by make, model, and serial
3 number, provided, however, that if the firearm is not a handgun
4 and does not have a serial number, identification number, or
5 identification mark assigned to it, a place on the application to
6 note that fact.

7 (2) If the firearm is a handgun, and, commencing July 1, 2012,
8 for any firearm, the department shall enter a record of the firearm
9 into the Automated Firearms System, provided, however, that if
10 the firearm is not a handgun and does not have a serial number,
11 identification number, or identification mark assigned to it, the
12 department shall note that fact.

13 (3) The department shall have 30 days from the date of receipt
14 to complete the background check unless delayed by circumstances
15 beyond the control of the department. The applicant may contact
16 the department to inquire about the reason for the delay.

17 (f) If the department denies the application, and the firearm is
18 an otherwise legal firearm, the department shall notify the applicant
19 of the denial and provide a form for the applicant to use to sell or
20 transfer the firearm to a licensed dealer as defined in Section 12071.
21 The applicant may contact the department to inquire about the
22 reason for the denial.

23 (g) Notwithstanding any other provision of law, no law
24 enforcement agency or court shall be required to retain a firearm
25 for more than 180 days after the owner of the firearm has been
26 notified by the court or law enforcement agency that the firearm
27 has been made available for return. An unclaimed firearm may be
28 disposed of after the 180-day period has expired.

29 (h) Notwithstanding Section 11106, the department may retain
30 personal information about an applicant in connection with a claim
31 for a firearm that is not a handgun to allow for law enforcement
32 confirmation of compliance with this section. The information
33 retained may include personal identifying information regarding
34 the individual applying for the clearance, but may not include
35 information that identifies any particular firearm that is not a
36 handgun. This subdivision shall become inoperative on July 1,
37 2012.

38 (i) (1) If a law enforcement agency determines that the applicant
39 is the legal owner of any firearm deposited with the law
40 enforcement agency and is prohibited from possessing any firearm

1 and the firearm is an otherwise legal firearm, the applicant shall
2 be entitled to sell or transfer the firearm to a licensed dealer as
3 defined in Section 12071.

4 (2) If the firearm has been lost or stolen, the firearm shall be
5 restored to the lawful owner pursuant to Section 11108.5 upon his
6 or her identification of the firearm and proof of ownership, and
7 proof of eligibility to possess a firearm pursuant to subdivision
8 (e). Nothing in this subdivision shall prevent the local law
9 enforcement agency from charging the rightful owner of the firearm
10 the fees described in subdivision (j).

11 (3) Subdivision (a) of Section 12070 shall not apply to
12 deliveries, transfers, or returns of firearms made by a court or a
13 law enforcement agency pursuant to this section.

14 (4) Subdivision (d) of Section 12072 shall not apply to
15 deliveries, transfers, or returns of firearms made pursuant to this
16 section.

17 (j) (1) A city, county, or city and county, or a state agency may
18 adopt a regulation, ordinance, or resolution imposing a charge
19 equal to its administrative costs relating to the seizure, impounding,
20 storage, or release of firearms. The fees shall not exceed the actual
21 costs incurred for the expenses directly related to taking possession
22 of a firearm, storing the firearm, and surrendering possession of
23 the firearm to a licensed firearms dealer or to the owner. Those
24 administrative costs may be waived by the local or state agency
25 upon verifiable proof that the firearm was reported stolen at the
26 time the firearm came into the custody or control of the law
27 enforcement agency.

28 (2) The following apply to any charges imposed for
29 administrative costs pursuant to this subdivision:

30 (A) The charges shall only be imposed on the person claiming
31 title to the firearms.

32 (B) Any charges shall be collected by the local or state authority
33 only from the person claiming title to the firearm.

34 (C) The charges shall be in addition to any other charges
35 authorized or imposed pursuant to this code.

36 (D) No charge may be imposed for any hearing or appeal
37 relating to the removal, impound, storage, or release of a firearm
38 unless that hearing or appeal was requested in writing by the legal
39 owner of the firearm. In addition, the charge may be imposed only
40 upon the person requesting that hearing or appeal.

1 (3) No costs for any hearing or appeal related to the release of
2 a firearm shall be charged to the legal owner who redeems the
3 firearm unless the legal owner voluntarily requests the poststorage
4 hearing or appeal. No city, county, city and county, or state agency
5 shall require a legal owner to request a poststorage hearing as a
6 requirement for release of the firearm to the legal owner.

7 (k) In a proceeding for the return of a firearm seized and not
8 returned pursuant to this section, where the defendant or
9 cross-defendant is a law enforcement agency, the court shall award
10 reasonable attorney's fees to the prevailing party.

11 SEC. 5. Section 12071 of the Penal Code is amended to read:

12 12071. (a) (1) As used in this chapter, the term "licensee,"
13 "person licensed pursuant to Section 12071," or "dealer" means a
14 person who has all of the following:

15 (A) A valid federal firearms license.

16 (B) Any regulatory or business license, or licenses, required by
17 local government.

18 (C) A valid seller's permit issued by the State Board of
19 Equalization.

20 (D) A certificate of eligibility issued by the Department of
21 Justice pursuant to paragraph (4).

22 (E) A license issued in the format prescribed by paragraph (6).

23 (F) Is among those recorded in the centralized list specified in
24 subdivision (e).

25 (2) The duly constituted licensing authority of a city, county,
26 or a city and county shall accept applications for, and may grant
27 licenses permitting, licensees to sell firearms at retail within the
28 city, county, or city and county. The duly constituted licensing
29 authority shall inform applicants who are denied licenses of the
30 reasons for the denial in writing.

31 (3) No license shall be granted to any applicant who fails to
32 provide a copy of his or her valid federal firearms license, valid
33 seller's permit issued by the State Board of Equalization, and the
34 certificate of eligibility described in paragraph (4).

35 (4) A person may request a certificate of eligibility from the
36 Department of Justice. The Department of Justice shall examine
37 its records and records available to the department in the National
38 Instant Criminal Background Check System in order to determine
39 if the applicant is prohibited by state or federal law from
40 possessing, receiving, owning, or purchasing a firearm and issue

1 a certificate to an applicant if the department's records indicate
2 that the applicant is not a person who is prohibited by state or
3 federal law from possessing firearms.

4 (5) The department shall adopt regulations to administer the
5 certificate of eligibility program and shall recover the full costs of
6 administering the program by imposing fees assessed to applicants
7 who apply for those certificates.

8 (6) A license granted by the duly constituted licensing authority
9 of any city, county, or city and county, shall be valid for not more
10 than one year from the date of issuance and shall be in one of the
11 following forms:

12 (A) In the form prescribed by the Attorney General.

13 (B) A regulatory or business license that states on its face "Valid
14 for Retail Sales of Firearms" and is endorsed by the signature of
15 the issuing authority.

16 (C) A letter from the duly constituted licensing authority having
17 primary jurisdiction for the applicant's intended business location
18 stating that the jurisdiction does not require any form of regulatory
19 or business license or does not otherwise restrict or regulate the
20 sale of firearms.

21 (7) Local licensing authorities may assess fees to recover their
22 full costs of processing applications for licenses.

23 (b) A license is subject to forfeiture for a breach of any of the
24 following prohibitions and requirements:

25 (1) (A) Except as provided in subparagraphs (B) and (C), the
26 business shall be conducted only in the buildings designated in the
27 license.

28 (B) A person licensed pursuant to subdivision (a) may take
29 possession of firearms and commence preparation of registers for
30 the sale, delivery, or transfer of firearms at gun shows or events,
31 as defined in Section 478.100 of Title 27 of the Code of Federal
32 Regulations, or its successor, if the gun show or event is not
33 conducted from any motorized or towed vehicle. A person
34 conducting business pursuant to this subparagraph shall be entitled
35 to conduct business as authorized herein at any gun show or event
36 in the state without regard to the jurisdiction within this state that
37 issued the license pursuant to subdivision (a), provided the person
38 complies with (i) all applicable laws, including, but not limited to,
39 the waiting period specified in subparagraph (A) of paragraph (3),
40 and (ii) all applicable local laws, regulations, and fees, if any.

1 A person conducting business pursuant to this subparagraph
2 shall publicly display his or her license issued pursuant to
3 subdivision (a), or a facsimile thereof, at any gun show or event,
4 as specified in this subparagraph.

5 (C) A person licensed pursuant to subdivision (a) may engage
6 in the sale and transfer of firearms other than handguns, at events
7 specified in subdivision (g) of Section 12078, subject to the
8 prohibitions and restrictions contained in that subdivision.

9 A person licensed pursuant to subdivision (a) also may accept
10 delivery of firearms other than handguns, outside the building
11 designated in the license, provided the firearm is being donated
12 for the purpose of sale or transfer at an auction or similar event
13 specified in subdivision (g) of Section 12078.

14 (D) The firearm may be delivered to the purchaser, transferee,
15 or person being loaned the firearm at one of the following places:

16 (i) The building designated in the license.

17 (ii) The places specified in subparagraph (B) or (C).

18 (iii) The place of residence of, the fixed place of business of,
19 or on private property owned or lawfully possessed by, the
20 purchaser, transferee, or person being loaned the firearm.

21 (2) The license or a copy thereof, certified by the issuing
22 authority, shall be displayed on the premises where it can easily
23 be seen.

24 (3) No firearm shall be delivered:

25 (A) Within 10 days of the application to purchase, or, after
26 notice by the department pursuant to subdivision (d) of Section
27 12076, within 10 days of the submission to the department of any
28 correction to the application, or within 10 days of the submission
29 to the department of any fee required pursuant to subdivision (e)
30 of Section 12076, whichever is later.

31 (B) Unless unloaded and securely wrapped or unloaded and in
32 a locked container.

33 (C) Unless the purchaser, transferee, or person being loaned the
34 firearm presents clear evidence of his or her identity and age to
35 the dealer.

36 (D) Whenever the dealer is notified by the Department of Justice
37 that the person is prohibited by state or federal law from processing,
38 owning, purchasing, or receiving a firearm. The dealer shall make
39 available to the person in the prohibited class a prohibited notice
40 and transfer form, provided by the department, stating that the

1 person is prohibited from owning or possessing a firearm, and that
2 the person may obtain from the department the reason for the
3 prohibition.

4 (4) No handgun or imitation thereof, or placard advertising the
5 sale or other transfer thereof, shall be displayed in any part of the
6 premises where it can readily be seen from the outside.

7 (5) The licensee shall agree to and shall act properly and
8 promptly in processing firearms transactions pursuant to Section
9 12082.

10 (6) The licensee shall comply with Sections 12073, 12076, and
11 12077, subdivisions (a) and (b) and paragraph (1) of subdivision
12 (f) of Section 12072, and subdivision (a) of Section 12316.

13 (7) The licensee shall post conspicuously within the licensed
14 premises the following warnings in block letters not less than one
15 inch in height:

16
17 (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY
18 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
19 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND
20 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES
21 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A
22 MISDEMEANOR OR A FELONY UNLESS YOU STORED
23 THE FIREARM IN A LOCKED CONTAINER OR LOCKED
24 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT
25 FROM TEMPORARILY FUNCTIONING."

26 (B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
27 FIREARM CAPABLE OF BEING CONCEALED UPON THE
28 PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY
29 OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE
30 GAINS ACCESS TO THE FIREARM, AND CARRIES IT
31 OFF-PREMISES, YOU MAY BE GUILTY OF A
32 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN
33 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH
34 A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY
35 FUNCTIONING."

36 (C) "IF YOU KEEP ANY FIREARM WITHIN ANY
37 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
38 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO
39 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A
40 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE

1 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP
2 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU
3 STORED THE FIREARM IN A LOCKED CONTAINER, OR
4 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

5 (D) “DISCHARGING FIREARMS IN POORLY
6 VENTILATED AREAS, CLEANING FIREARMS, OR
7 HANDLING AMMUNITION MAY RESULT IN EXPOSURE
8 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
9 DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS
10 PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT
11 ALL TIMES. WASH HANDS THOROUGHLY AFTER
12 EXPOSURE.”

13 (E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU
14 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM
15 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30
16 DAYS AFTER YOU COMPLETE THE INITIAL
17 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE
18 TO GO THROUGH THE BACKGROUND CHECK PROCESS
19 A SECOND TIME IN ORDER TO TAKE PHYSICAL
20 POSSESSION OF THAT FIREARM.”

21 (F) “NO PERSON SHALL MAKE AN APPLICATION TO
22 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR
23 OTHER FIREARM CAPABLE OF BEING CONCEALED UPON
24 THE PERSON WITHIN ANY 30-DAY PERIOD AND NO
25 DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS
26 MADE AN APPLICATION TO PURCHASE MORE THAN ONE
27 PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF
28 BEING CONCEALED UPON THE PERSON WITHIN ANY
29 30-DAY PERIOD.”

30
31 (8) (A) Commencing April 1, 1994, and until January 1, 2003,
32 no pistol, revolver, or other firearm capable of being concealed
33 upon the person shall be delivered unless the purchaser, transferee,
34 or person being loaned the firearm presents to the dealer a basic
35 firearms safety certificate.

36 (B) No dealer may deliver a handgun unless the person receiving
37 the handgun presents to the dealer a valid handgun safety
38 certificate. The firearms dealer shall retain a photocopy of the
39 handgun safety certificate as proof of compliance with this
40 requirement.

(C) No handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange, red, or other readily identifiable dummy round into the magazine. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

1 (X) Lock the slide back to eject the bright orange, red, or other
2 readily identifiable dummy round. If the handgun is of a model
3 that does not allow the slide to be locked back, pull the slide back
4 and physically check the chamber to ensure that the chamber is
5 clear. If no readily identifiable dummy round is available, an empty
6 cartridge casing with an empty primer pocket may be used.

7 (XI) Apply the safety, if applicable.

8 (XII) Apply the firearm safety device, if applicable. This
9 requirement shall not apply to an Olympic competition pistol if
10 no firearms safety device, other than a cable lock that the
11 department has determined would damage the barrel of the pistol,
12 has been approved for the pistol, and the pistol is either listed in
13 paragraph (2) of subdivision (h) of Section 12132 or is subject to
14 paragraph (3) of subdivision (h) of Section 12132.

15 (ii) If the handgun is a double-action revolver:

16 (I) Open the cylinder.

17 (II) Visually and physically inspect each chamber, to ensure
18 that the revolver is unloaded.

19 (III) Remove the firearm safety device. If the firearm safety
20 device prevents any of the previous steps, remove the firearm
21 safety device during the appropriate step.

22 (IV) While maintaining muzzle awareness and trigger discipline,
23 load one bright orange, red, or other readily identifiable dummy
24 round into a chamber of the cylinder and rotate the cylinder so that
25 the round is in the next-to-fire position. If no readily identifiable
26 dummy round is available, an empty cartridge casing with an empty
27 primer pocket may be used.

28 (V) Close the cylinder.

29 (VI) Open the cylinder and eject the round.

30 (VII) Visually and physically inspect each chamber to ensure
31 that the revolver is unloaded.

32 (VIII) Apply the firearm safety device, if applicable. This
33 requirement shall not apply to an Olympic competition pistol if
34 no firearms safety device, other than a cable lock that the
35 department has determined would damage the barrel of the pistol,
36 has been approved for the pistol, and the pistol is either listed in
37 paragraph (2) of subdivision (h) of Section 12132 or is subject to
38 paragraph (3) of subdivision (h) of Section 12132.

39 (iii) If the handgun is a single-action revolver:

40 (I) Open the loading gate.

1 (II) Visually and physically inspect each chamber, to ensure
2 that the revolver is unloaded.

3 (III) Remove the firearm safety device required to be sold with
4 the handgun. If the firearm safety device prevents any of the
5 previous steps, remove the firearm safety device during the
6 appropriate step.

7 (IV) Load one bright orange, red, or other readily identifiable
8 dummy round into a chamber of the cylinder, close the loading
9 gate and rotate the cylinder so that the round is in the next-to-fire
10 position. If no readily identifiable dummy round is available, an
11 empty cartridge casing with an empty primer pocket may be used.

12 (V) Open the loading gate and unload the revolver.

13 (VI) Visually and physically inspect each chamber to ensure
14 that the revolver is unloaded.

15 (VII) Apply the firearm safety device, if applicable. This
16 requirement shall not apply to an Olympic competition pistol if
17 no firearms safety device, other than a cable lock that the
18 department has determined would damage the barrel of the pistol,
19 has been approved for the pistol, and the pistol is either listed in
20 paragraph (2) of subdivision (h) of Section 12132 or is subject to
21 paragraph (3) of subdivision (h) of Section 12132.

22 (E) The recipient shall receive instruction regarding how to
23 render that handgun safe in the event of a jam.

24 (F) The firearms dealer shall sign and date an affidavit stating
25 that the requirements of subparagraph (D) have been met. The
26 firearms dealer shall additionally obtain the signature of the
27 handgun purchaser on the same affidavit. The firearms dealer shall
28 retain the original affidavit as proof of compliance with this
29 requirement.

30 (G) The recipient shall perform the safe handling demonstration
31 for a department-certified instructor.

32 (H) No demonstration shall be required if the dealer is returning
33 the handgun to the owner of the handgun.

34 (I) Department-certified instructors who may administer the
35 safe handling demonstration shall meet the requirements set forth
36 in subdivision (j) of Section 12804.

37 (J) The persons who are exempt from the requirements of
38 subdivision (b) of Section 12801, pursuant to Section 12807, are
39 also exempt from performing the safe handling demonstration.

1 (9) The licensee shall offer to provide the purchaser or transferee
2 of a firearm, or person being loaned a firearm, with a copy of the
3 pamphlet described in Section 12080 and may add the cost of the
4 pamphlet, if any, to the sales price of the firearm.

5 (10) The licensee shall not commit an act of collusion as defined
6 in Section 12072.

7 (11) The licensee shall post conspicuously within the licensed
8 premises a detailed list of each of the following:

9 (A) All charges required by governmental agencies for
10 processing firearm transfers required by Sections 12076, 12082,
11 and 12806.

12 (B) All fees that the licensee charges pursuant to Sections 12082
13 and 12806.

14 (12) The licensee shall not misstate the amount of fees charged
15 by a governmental agency pursuant to Sections 12076, 12082, and
16 12806.

17 (13) Except as provided in subparagraphs (B) and (C) of
18 paragraph (1) of subdivision (b), all firearms that are in the
19 inventory of the licensee shall be kept within the licensed location.
20 The licensee shall report the loss or theft of any firearm that is
21 merchandise of the licensee, any firearm that the licensee takes
22 possession of pursuant to Section 12082, or any firearm kept at
23 the licensee's place of business within 48 hours of discovery to
24 the appropriate law enforcement agency in the city, county, or city
25 and county where the licensee's business premises are located.

26 (14) Except as provided in subparagraphs (B) and (C) of
27 paragraph (1) of subdivision (b), any time when the licensee is not
28 open for business, all inventory firearms shall be stored in the
29 licensed location. All firearms shall be secured using one of the
30 following methods as to each particular firearm:

31 (A) Store the firearm in a secure facility that is a part of, or that
32 constitutes, the licensee's business premises.

33 (B) Secure the firearm with a hardened steel rod or cable of at
34 least one-eighth inch in diameter through the trigger guard of the
35 firearm. The steel rod or cable shall be secured with a hardened
36 steel lock that has a shackle. The lock and shackle shall be
37 protected or shielded from the use of a boltcutter and the rod or
38 cable shall be anchored in a manner that prevents the removal of
39 the firearm from the premises.

1 (C) Store the firearm in a locked fireproof safe or vault in the
2 licensee's business premises.

3 (15) The licensing authority in an unincorporated area of a
4 county or within a city may impose security requirements that are
5 more strict or are at a higher standard than those specified in
6 paragraph (14).

7 (16) Commencing January 1, 1994, the licensee shall, upon the
8 issuance or renewal of a license, submit a copy of the same to the
9 Department of Justice.

10 (17) The licensee shall maintain and make available for
11 inspection during business hours to any peace officer, authorized
12 local law enforcement employee, or Department of Justice
13 employee designated by the Attorney General, upon the
14 presentation of proper identification, a firearms transaction record.

15 (18) (A) On the date of receipt, the licensee shall report to the
16 Department of Justice in a format prescribed by the department
17 the acquisition by the licensee of the ownership of a handgun, and
18 commencing July 1, 2012, of any firearm.

19 (B) The provisions of this paragraph shall not apply to any of
20 the following transactions:

21 (i) A transaction subject to the provisions of subdivision (n) of
22 Section 12078.

23 (ii) The dealer acquired the firearm from a wholesaler.

24 (iii) The dealer acquired the firearm from a person who is
25 licensed as a manufacturer or importer to engage in those activities
26 pursuant to Chapter 44 (commencing with Section 921) of Title
27 18 of the United States Code and any regulations issued pursuant
28 thereto.

29 (iv) The dealer acquired the firearm from a person who resides
30 outside this state who is licensed pursuant to Chapter 44
31 (commencing with Section 921) of Title 18 of the United States
32 Code and any regulations issued pursuant thereto.

33 (v) The dealer is also licensed as a secondhand dealer pursuant
34 to Article 4 (commencing with Section 21625) of Chapter 9 of
35 Division 8 of the Business and Professions Code, acquires a
36 handgun, and reports its acquisition pursuant to Section 21628.2
37 of the Business and Professions Code.

38 (19) The licensee shall forward in a format prescribed by the
39 Department of Justice, information as required by the department
40 on any firearm that is not delivered within the time period set forth

1 in Section 478.102 (c) of Title 27 of the Code of Federal
2 Regulations.

3 (20) (A) Firearms dealers may require any agent who handles,
4 sells, or delivers firearms to obtain and provide to the dealer a
5 certificate of eligibility from the department pursuant to paragraph
6 (4) of subdivision (a). The agent or employee shall provide on the
7 application, the name and California firearms dealer number of
8 the firearms dealer with whom he or she is employed.

9 (B) The department shall notify the firearms dealer in the event
10 that the agent or employee who has a certificate of eligibility is or
11 becomes prohibited from possessing firearms.

12 (C) If the local jurisdiction requires a background check of the
13 agents or employees of the firearms dealer, the agent or employee
14 shall obtain a certificate of eligibility pursuant to subparagraph
15 (A).

16 (D) Nothing in this paragraph shall be construed to preclude a
17 local jurisdiction from conducting an additional background check
18 pursuant to Section 11105 or prohibiting employment based on
19 criminal history that does not appear as part of obtaining a
20 certificate of eligibility, provided however, that the local
21 jurisdiction may not charge a fee for the additional criminal history
22 check.

23 (E) The licensee shall prohibit any agent who the licensee knows
24 or reasonably should know is within a class of persons prohibited
25 from possessing firearms pursuant to Section 12021 or 12021.1
26 of this code, or Section 8100 or 8103 of the Welfare and
27 Institutions Code, from coming into contact with any firearm that
28 is not secured and from accessing any key, combination, code, or
29 other means to open any of the locking devices described in clause
30 (ii) of subparagraph (G) of this paragraph.

31 (F) Nothing in this paragraph shall be construed as preventing
32 a local government from enacting an ordinance imposing additional
33 conditions on licensees with regard to agents.

34 (G) For purposes of this section, the following definitions shall
35 apply:

36 (i) An “agent” is an employee of the licensee.

37 (ii) “Secured” means a firearm that is made inoperable in one
38 or more of the following ways:

39 (I) The firearm is inoperable because it is secured by a firearms
40 safety device listed on the department’s roster of approved firearms

1 safety devices pursuant to subdivision (d) of Section 12088 of this
2 chapter.

3 (II) The firearm is stored in a locked gun safe or long-gun safe
4 which meets the standards for department-approved gun safes set
5 forth in Section 12088.2.

6 (III) The firearm is stored in a distinct locked room or area in
7 the building that is used to store firearms that can only be unlocked
8 by a key, a combination, or similar means.

9 (IV) The firearm is secured with a hardened steel rod or cable
10 that is at least one-eighth of an inch in diameter through the trigger
11 guard of the firearm. The steel rod or cable shall be secured with
12 a hardened steel lock that has a shackle. The lock and shackle shall
13 be protected or shielded from the use of a boltcutter and the rod
14 or cable shall be anchored in a manner that prevents the removal
15 of the firearm from the premises.

16 (c) (1) As used in this article, “clear evidence of his or her
17 identity and age” means either of the following:

18 (A) A valid California driver’s license.

19 (B) A valid California identification card issued by the
20 Department of Motor Vehicles.

21 (2) As used in this section, a “secure facility” means a building
22 that meets all of the following specifications:

23 (A) All perimeter doorways shall meet one of the following:

24 (i) A windowless steel security door equipped with both a dead
25 bolt and a doorknob lock.

26 (ii) A windowed metal door that is equipped with both a dead
27 bolt and a doorknob lock. If the window has an opening of five
28 inches or more measured in any direction, the window shall be
29 covered with steel bars of at least ½-inch diameter or metal grating
30 of at least 9 gauge affixed to the exterior or interior of the door.

31 (iii) A metal grate that is padlocked and affixed to the licensee’s
32 premises independent of the door and doorframe.

33 (B) All windows are covered with steel bars.

34 (C) Heating, ventilating, air-conditioning, and service openings
35 are secured with steel bars, metal grating, or an alarm system.

36 (D) Any metal grates have spaces no larger than six inches wide
37 measured in any direction.

38 (E) Any metal screens have spaces no larger than three inches
39 wide measured in any direction.

40 (F) All steel bars shall be no further than six inches apart.

1 (3) As used in this section, “licensed premises,” “licensed place
2 of business,” “licensee’s place of business,” or “licensee’s business
3 premises” means the building designated in the license.

4 (4) For purposes of paragraph (17) of subdivision (b):

5 (A) A “firearms transaction record” is a record containing the
6 same information referred to in subdivision (a) of Section 478.124,
7 Section 478.124a, and subdivision (e) of Section 478.125 of Title
8 27 of the Code of Federal Regulations.

9 (B) A licensee shall be in compliance with the provisions of
10 paragraph (17) of subdivision (b) if he or she maintains and makes
11 available for inspection during business hours to any peace officer,
12 authorized local law enforcement employee, or Department of
13 Justice employee designated by the Attorney General, upon the
14 presentation of proper identification, the bound book containing
15 the same information referred to in Section 478.124a and
16 subdivision (e) of Section 478.125 of Title 27 of the Code of
17 Federal Regulations and the records referred to in subdivision (a)
18 of Section 478.124 of Title 27 of the Code of Federal Regulations.

19 (d) Upon written request from a licensee, the licensing authority
20 may grant an exemption from compliance with the requirements
21 of paragraph (14) of subdivision (b) if the licensee is unable to
22 comply with those requirements because of local ordinances,
23 covenants, lease conditions, or similar circumstances not under
24 the control of the licensee.

25 (e) (1) Except as otherwise provided in this paragraph, the
26 Department of Justice shall keep a centralized list of all persons
27 licensed pursuant to subparagraphs (A) to (E), inclusive, of
28 paragraph (1) of subdivision (a). The department may remove from
29 this list any person who knowingly or with gross negligence
30 violates this article. Upon removal of a dealer from this list,
31 notification shall be provided to local law enforcement and
32 licensing authorities in the jurisdiction where the dealer’s business
33 is located.

34 (2) The department shall remove from the centralized list any
35 person whose federal firearms license has expired or has been
36 revoked.

37 (3) Information compiled from the list shall be made available,
38 upon request, for the following purposes only:

39 (A) For law enforcement purposes.

1 (B) When the information is requested by a person licensed
2 pursuant to Chapter 44 (commencing with Section 921) of Title
3 18 of the United States Code for determining the validity of the
4 license for firearm shipments.

5 (C) When information is requested by a person promoting,
6 sponsoring, operating, or otherwise organizing a show or event as
7 defined in Section 478.100 of Title 27 of the Code of Federal
8 Regulations, or its successor, who possesses a valid certificate of
9 eligibility issued pursuant to Section 12071.1, if that information
10 is requested by the person to determine the eligibility of a
11 prospective participant in a gun show or event to conduct
12 transactions as a firearms dealer pursuant to subparagraph (B) of
13 paragraph (1) of subdivision (b).

14 (4) Information provided pursuant to paragraph (3) shall be
15 limited to information necessary to corroborate an individual's
16 current license status as being one of the following:

17 (A) A person licensed pursuant to subparagraphs (A) to (E),
18 inclusive, of paragraph (1) of subdivision (a).

19 (B) A person licensed pursuant to Chapter 44 (commencing
20 with Section 921) of Title 18 of the United States Code and who
21 is not subject to the requirement that he or she be licensed pursuant
22 to subparagraphs (A) to (E), inclusive, of paragraph (1) of
23 subdivision (a).

24 (f) The Department of Justice may inspect dealers to ensure
25 compliance with this article. The department may assess an annual
26 fee, not to exceed one hundred fifteen dollars (\$115), to cover the
27 reasonable cost of maintaining the list described in subdivision
28 (e), including the cost of inspections. Dealers whose place of
29 business is in a jurisdiction that has adopted an inspection program
30 to ensure compliance with firearms law shall be exempt from that
31 portion of the department's fee that relates to the cost of
32 inspections. The applicant is responsible for providing evidence
33 to the department that the jurisdiction in which the business is
34 located has the inspection program.

35 (g) The Department of Justice shall maintain and make available
36 upon request information concerning the number of inspections
37 conducted and the amount of fees collected pursuant to subdivision
38 (f), a listing of exempted jurisdictions, as defined in subdivision
39 (f), the number of dealers removed from the centralized list defined

1 in subdivision (e), and the number of dealers found to have violated
2 this article with knowledge or gross negligence.

3 (h) Paragraph (14) or (15) of subdivision (b) shall not apply to
4 a licensee organized as a nonprofit public benefit or mutual benefit
5 corporation organized pursuant to Part 2 (commencing with Section
6 5110) or Part 3 (commencing with Section 7110) of Division 2 of
7 the Corporations Code, if both of the following conditions are
8 satisfied:

9 (1) The nonprofit public benefit or mutual benefit corporation
10 obtained the dealer's license solely and exclusively to assist that
11 corporation or local chapters of that corporation in conducting
12 auctions or similar events at which firearms are auctioned off to
13 fund the activities of that corporation or the local chapters of the
14 corporation.

15 (2) The firearms are not handguns.

16 SEC. 6. Section 12072 of the Penal Code is amended to read:

17 12072. (a) (1) No person, corporation, or firm shall knowingly
18 supply, deliver, sell, or give possession or control of a firearm to
19 any person within any of the classes prohibited by Section 12021
20 or 12021.1.

21 (2) No person, corporation, or dealer shall sell, supply, deliver,
22 or give possession or control of a firearm to any person whom he
23 or she has cause to believe to be within any of the classes
24 prohibited by Section 12021 or 12021.1 of this code or Section
25 8100 or 8103 of the Welfare and Institutions Code.

26 (3) (A) No person, corporation, or firm shall sell, loan, or
27 transfer a firearm to a minor, nor sell a handgun to an individual
28 under 21 years of age.

29 (B) Subparagraph (A) shall not apply to or affect those
30 circumstances set forth in subdivision (p) of Section 12078.

31 (4) No person, corporation, or dealer shall sell, loan, or transfer
32 a firearm to any person whom he or she knows or has cause to
33 believe is not the actual purchaser or transferee of the firearm, or
34 to any person who is not the person actually being loaned the
35 firearm, if the person, corporation, or dealer has either of the
36 following:

37 (A) Knowledge that the firearm is to be subsequently loaned,
38 sold, or transferred to avoid the provisions of subdivision (c) or
39 (d).

1 (B) Knowledge that the firearm is to be subsequently loaned,
2 sold, or transferred to avoid the requirements of any exemption to
3 the provisions of subdivision (c) or (d).

4 (5) No person, corporation, or dealer shall acquire a firearm for
5 the purpose of selling, transferring, or loaning the firearm, if the
6 person, corporation, or dealer has either of the following:

7 (A) In the case of a dealer, intent to violate subdivision (b) or
8 (c).

9 (B) In any other case, intent to avoid either of the following:

10 (i) The provisions of subdivision (d).

11 (ii) The requirements of any exemption to the provisions of
12 subdivision (d).

13 (6) The dealer shall comply with the provisions of paragraph
14 (18) of subdivision (b) of Section 12071.

15 (7) The dealer shall comply with the provisions of paragraph
16 (19) of subdivision (b) of Section 12071.

17 (8) No person shall sell or otherwise transfer his or her
18 ownership in a handgun unless the firearm bears either:

19 (A) The name of the manufacturer, the manufacturer's make or
20 model, and a manufacturer's serial number assigned to that firearm.

21 (B) The identification number or mark assigned to the firearm
22 by the Department of Justice pursuant to Section 12092.

23 (9) (A) No person shall make an application to purchase more
24 than one handgun within any 30-day period.

25 (B) Subparagraph (A) shall not apply to any of the following:

26 (i) Any law enforcement agency.

27 (ii) Any agency duly authorized to perform law enforcement
28 duties.

29 (iii) Any state or local correctional facility.

30 (iv) Any private security company licensed to do business in
31 California.

32 (v) Any person who is properly identified as a full-time paid
33 peace officer, as defined in Chapter 4.5 (commencing with Section
34 830) of Title 3 of Part 2, and who is authorized to, and does carry
35 a firearm during the course and scope of his or her employment
36 as a peace officer.

37 (vi) Any motion picture, television, or video production
38 company or entertainment or theatrical company whose production
39 by its nature involves the use of a firearm.

1 (vii) Any person who may, pursuant to Section 12078, claim
2 an exemption from the waiting period set forth in subdivision (c)
3 of this section.

4 (viii) Any transaction conducted through a licensed firearms
5 dealer pursuant to Section 12082.

6 (ix) Any person who is licensed as a collector pursuant to
7 Chapter 44 (commencing with Section 921) of Title 18 of the
8 United States Code and the regulations issued pursuant thereto
9 and who has a current certificate of eligibility issued to him or her
10 by the Department of Justice pursuant to Section 12071.

11 (x) The exchange of a handgun where the dealer purchased that
12 firearm from the person seeking the exchange within the 30-day
13 period immediately preceding the date of exchange or replacement.

14 (xi) The replacement of a handgun when the person's handgun
15 was lost or stolen, and the person reported that firearm lost or
16 stolen prior to the completion of the application to purchase to any
17 local law enforcement agency of the city, county, or city and county
18 in which he or she resides.

19 (xii) The return of any handgun to its owner.

20 (xiii) Community colleges that are certified by the Commission
21 on Peace Officer Standards and Training to present the law
22 enforcement academy basic course or other commission-certified
23 law enforcement training.

24 (b) No person licensed under Section 12071 shall supply, sell,
25 deliver, or give possession or control of a handgun to any person
26 under the age of 21 years or any other firearm to a person under
27 the age of 18 years.

28 (c) No dealer, whether or not acting pursuant to Section 12082,
29 shall deliver a firearm to a person, as follows:

30 (1) Within 10 days of the application to purchase, or, after notice
31 by the department pursuant to subdivision (d) of Section 12076,
32 within 10 days of the submission to the department of any
33 correction to the application, or within 10 days of the submission
34 to the department of any fee required pursuant to subdivision (e)
35 of Section 12076, whichever is later.

36 (2) Unless unloaded and securely wrapped or unloaded and in
37 a locked container.

38 (3) Unless the purchaser, transferee, or person being loaned the
39 firearm presents clear evidence of his or her identity and age, as
40 defined in Section 12071, to the dealer.

1 (4) Whenever the dealer is notified by the Department of Justice
2 that the person is prohibited by state or federal law from possessing,
3 receiving, owning, or purchasing a firearm.

4 (5) No handgun shall be delivered unless the purchaser,
5 transferee, or person being loaned the handgun presents a handgun
6 safety certificate to the dealer.

7 (6) No handgun shall be delivered whenever the dealer is
8 notified by the Department of Justice that within the preceding
9 30-day period the purchaser has made another application to
10 purchase a handgun and that the previous application to purchase
11 involved none of the entities specified in subparagraph (B) of
12 paragraph (9) of subdivision (a).

13 (d) Where neither party to the transaction holds a dealer's license
14 issued pursuant to Section 12071, the parties to the transaction
15 shall complete the sale, loan, or transfer of that firearm through a
16 licensed firearms dealer pursuant to Section 12082.

17 (e) No person may commit an act of collusion relating to Article
18 8 (commencing with Section 12800) of Chapter 6. For purposes
19 of this section and Section 12071, collusion may be proven by any
20 one of the following factors:

21 (1) Answering a test applicant's questions during an objective
22 test relating to firearms safety.

23 (2) Knowingly grading the examination falsely.

24 (3) Providing an advance copy of the test to an applicant.

25 (4) Taking or allowing another person to take the basic firearms
26 safety course for one who is the applicant for a basic firearms
27 safety certificate or a handgun safety certificate.

28 (5) Allowing another to take the objective test for the applicant,
29 purchaser, or transferee.

30 (6) Using or allowing another to use one's identification, proof
31 of residency, or thumbprint.

32 (7) Allowing others to give unauthorized assistance during the
33 examination.

34 (8) Reference to unauthorized materials during the examination
35 and cheating by the applicant.

36 (9) Providing originals or photocopies of the objective test, or
37 any version thereof, to any person other than as authorized by the
38 department.

39 (f) (1) (A) Commencing July 1, 2008, a person who is licensed
40 pursuant to Chapter 44 (commencing with Section 921) of Title

1 18 of the United States Code may not deliver, sell, or transfer a
2 firearm to a person in California who is licensed pursuant to
3 Chapter 44 (commencing with Section 921) of Title 18 of the
4 United States Code unless, prior to delivery, the person intending
5 to deliver, sell, or transfer the firearm obtains a verification number
6 via the Internet for the intended delivery, sale, or transfer, from
7 the department. If Internet service is unavailable to either the
8 department or the licensee due to a technical or other malfunction,
9 or a federal firearms licensee who is located outside of California
10 does not possess a computer or have Internet access, alternate
11 means of communication, including facsimile or telephone, shall
12 be made available for a licensee to obtain a verification number
13 in order to comply with this section.

14 (B) For every verification number request received pursuant to
15 this section, the department shall determine whether the intended
16 recipient is on the centralized list of firearms dealers pursuant to
17 this section, or the centralized list of exempted federal firearms
18 licensees pursuant to subdivision (a) of Section 12083, or the
19 centralized list of firearms manufacturers pursuant to subdivision
20 (f) of Section 12086.

21 (C) If the department finds after the reviews specified in
22 subparagraph (B) that the intended recipient is authorized to receive
23 the firearm shipment, the department shall issue to the inquiring
24 party a unique verification number for the intended delivery, sale,
25 or transfer. One verification number shall be issued for each
26 delivery, sale, or transfer, which may involve multiple firearms.
27 In addition to the unique verification number, the department may
28 provide to the inquiring party information necessary for
29 determining the eligibility of the intended recipient to receive the
30 firearm. The person intending to deliver, sell, or transfer the firearm
31 shall provide the unique verification number to the recipient along
32 with the firearm upon delivery, in a manner to be determined by
33 the department.

34 (D) If the department finds after the reviews specified in
35 subparagraph (B) that the intended recipient is not authorized to
36 receive the firearm shipment, the department shall notify the
37 inquiring party that the intended recipient is ineligible to receive
38 the shipment.

39 (E) The department shall prescribe the manner in which the
40 verification numbers may be requested via the Internet, or by

1 alternate means of communication, such as by facsimile or
2 telephone, including all required enrollment information and
3 procedures.

4 (2) (A) Within 60 days of bringing a handgun into this state,
5 and commencing July 1, 2012, within 60 days of bringing any
6 firearm into this state, a personal firearm importer shall do one of
7 the following:

8 (i) Forward by prepaid mail or deliver in person to the
9 Department of Justice, a report prescribed by the department
10 including information concerning that individual and a description
11 of the firearm in question.

12 (ii) Sell or transfer the firearm in accordance with the provisions
13 of subdivision (d) or in accordance with the provisions of an
14 exemption from subdivision (d).

15 (iii) Sell or transfer the firearm to a dealer licensed pursuant to
16 Section 12071.

17 (iv) Sell or transfer the firearm to a sheriff or police department.

18 (B) If the personal firearm importer sells or transfers the firearm
19 pursuant to subdivision (d) of Section 12072 and the sale or transfer
20 cannot be completed by the dealer to the purchaser or transferee,
21 and the firearm can be returned to the personal firearm importer,
22 the personal firearm importer shall have complied with the
23 provisions of this paragraph.

24 (C) The provisions of this paragraph are cumulative and shall
25 not be construed as restricting the application of any other law.
26 However, an act or omission punishable in different ways by this
27 section and different provisions of the Penal Code shall not be
28 punished under more than one provision.

29 (D) (i) The department shall conduct a public education and
30 notification program regarding this paragraph to ensure a high
31 degree of publicity of the provisions of this paragraph.

32 (ii) As part of the public education and notification program
33 described in this subparagraph, the department shall do all of the
34 following:

35 (I) Work in conjunction with the Department of Motor Vehicles
36 to ensure that any person who is subject to this paragraph is advised
37 of the provisions of this paragraph, and provided with blank copies
38 of the report described in clause (i) of subparagraph (A) at the time
39 that person applies for a California driver's license or registers his
40 or her motor vehicle in accordance with the Vehicle Code.

1 (II) Make the reports referred to in clause (i) of subparagraph
2 (A) available to dealers licensed pursuant to Section 12071.

3 (III) Make the reports referred to in clause (i) of subparagraph
4 (A) available to law enforcement agencies.

5 (IV) Make persons subject to the provisions of this paragraph
6 aware of the fact that reports referred to in clause (i) of
7 subparagraph (A) may be completed at either the licensed premises
8 of dealers licensed pursuant to Section 12071 or at law enforcement
9 agencies, that it is advisable to do so for the sake of accuracy and
10 completeness of the reports, that prior to transporting a firearm to
11 a law enforcement agency in order to comply with subparagraph
12 (A), the person should give prior notice to the law enforcement
13 agency that he or she is doing so, and that in any event, the handgun
14 should be transported unloaded and in a locked container and a
15 firearm that is not a handgun should be transported unloaded.

16 (iii) Any costs incurred by the department to implement this
17 paragraph shall be absorbed by the department within its existing
18 budget and the fees in the Dealers' Record of Sale Special Account
19 allocated for implementation of this subparagraph pursuant to
20 Section 12076.

21 (3) Where a person who is licensed as a collector pursuant to
22 Chapter 44 (commencing with Section 921) of Title 18 of the
23 United States Code and the regulations issued pursuant thereto,
24 whose licensed premises are within this state, acquires a handgun,
25 and after July 1, 2012, any firearm that in either case is a curio or
26 relic, as defined in Section 478.11 of Title 27 of the Code of
27 Federal Regulations, outside of this state, takes actual possession
28 of that firearm outside of this state pursuant to the provisions of
29 subsection (j) of Section 923 of Title 18 of the United States Code,
30 as amended by Public Law 104-208, and transports that firearm
31 into this state, within five days of that licensed collector
32 transporting that firearm into this state, he or she shall report to
33 the department in a format prescribed by the department his or her
34 acquisition of that firearm.

35 (4) (A) It is the intent of the Legislature that a violation of
36 paragraph (2) or (3) shall not constitute a "continuing offense" and
37 the statute of limitations for commencing a prosecution for a
38 violation of paragraph (2) or (3) commences on the date that the
39 applicable grace period specified in paragraph (2) or (3) expires.

(B) Paragraphs (2) and (3) shall not apply to a person who reports his or her ownership of a handgun after the applicable grace period specified in paragraph (2) or (3) expires if evidence of that violation arises only as the result of the person submitting the report described in paragraph (2) or (3).

(g) (1) Except as provided in paragraph (2), (3), or (5), a violation of this section is a misdemeanor.

(2) If any of the following circumstances apply, a violation of this section is punishable by imprisonment in the state prison for two, three, or four years.

(A) If the violation is of paragraph (1) of subdivision (a).

(B) If the defendant has a prior conviction of violating the provisions, other than paragraph (9) of subdivision (a), of this section or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

(C) If the defendant has a prior conviction of violating any offense specified in subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or 12520, or of former Section 12560.

(D) If the defendant is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(E) A violation of this section by a person who actively participates in a “criminal street gang” as defined in Section 186.22.

(F) A violation of subdivision (b) involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(3) If any of the following circumstances apply, a violation of this section shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(A) A violation of paragraph (2), (4), or (5) of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a handgun to a minor.

(C) A violation of subdivision (b) involving the delivery of a handgun.

(D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving a handgun.

(E) A violation of subdivision (d) involving a handgun.

1 (F) A violation of subdivision (e).

2 (4) If both of the following circumstances apply, an additional
3 term of imprisonment in the state prison for one, two, or three
4 years shall be imposed in addition and consecutive to the sentence
5 prescribed.

6 (A) A violation of paragraph (2) of subdivision (a) or subdivision
7 (b).

8 (B) The firearm transferred in violation of paragraph (2) of
9 subdivision (a) or subdivision (b) is used in the subsequent
10 commission of a felony for which a conviction is obtained and the
11 prescribed sentence is imposed.

12 (5) (A) A first violation of paragraph (9) of subdivision (a) is
13 an infraction punishable by a fine of fifty dollars (\$50).

14 (B) A second violation of paragraph (9) of subdivision (a) is an
15 infraction punishable by a fine of one hundred dollars (\$100).

16 (C) A third or subsequent violation of paragraph (9) of
17 subdivision (a) is a misdemeanor.

18 (D) For purposes of this paragraph each application to purchase
19 a handgun in violation of paragraph (9) of subdivision (a) shall be
20 deemed a separate offense.

21 SEC. 7. Section 12073 of the Penal Code is amended to read:

22 12073. (a) As required by the Department of Justice, every
23 dealer shall keep a register or record of electronic or telephonic
24 transfer in which shall be entered the information prescribed in
25 Section 12077.

26 (b) This section shall not apply to any of the following
27 transactions:

28 (1) Until July 1, 2012, the delivery, sale, or transfer of an
29 unloaded firearm that is not a handgun by a dealer to another dealer
30 upon proof of compliance with the requirements of paragraph (1)
31 of subdivision (f) of Section 12072.

32 (2) The delivery, sale, or transfer of an unloaded firearm by a
33 dealer to another dealer if that firearm is intended as merchandise
34 in the receiving dealer's business upon proof of compliance with
35 the requirements of paragraph (1) of subdivision (f) of Section
36 12072.

37 (3) The delivery, sale, or transfer of an unloaded firearm by a
38 dealer to a person licensed as an importer or manufacturer pursuant
39 to Chapter 44 (commencing with Section 921) of Title 18 of the
40 United States Code and any regulations issued pursuant thereto.

1 (4) The delivery, sale, or transfer of an unloaded firearm by a
2 dealer who sells, transfers, or delivers the firearm to a person who
3 resides outside this state who is licensed pursuant to Chapter 44
4 (commencing with Section 921) of Title 18 of the United States
5 Code and any regulations issued pursuant thereto.

6 (5) The delivery, sale, or transfer of an unloaded firearm by a
7 dealer to a wholesaler if that firearm is being returned to the
8 wholesaler and is intended as merchandise in the wholesaler's
9 business.

10 (6) Until July 1, 2012, the delivery, sale, or transfer of an
11 unloaded firearm that is not a handgun by a dealer to himself or
12 herself.

13 (7) The loan of an unloaded firearm by a dealer who also
14 operates a target facility which holds a business or regulatory
15 license on the premises of the building designated in the license
16 or whose building designated in the license is on the premises of
17 any club or organization organized for the purpose of practicing
18 shooting at targets upon established ranges, whether public or
19 private, to a person at that target facility or club or organization,
20 if the firearm is kept at all times within the premises of the target
21 range or on the premises of the club or organization.

22 (8) The delivery of an unloaded firearm by a dealer to a
23 gunsmith for service or repair.

24 (9) The return of an unloaded firearm to the owner of that
25 firearm by a dealer, if the owner initially delivered the firearm to
26 the dealer for service or repair.

27 (10) The loan of an unloaded firearm by a dealer to a person
28 who possesses a valid entertainment firearms permit issued
29 pursuant to Section 12081, for use solely as a prop in a motion
30 picture, television, video, theatrical, or other entertainment
31 production or event.

32 (11) The loan of an unloaded firearm by a dealer to a
33 consultant-evaluator, if the loan does not exceed 45 days from the
34 date of delivery of the firearm by the dealer to the
35 consultant-evaluator.

36 (c) A violation of this section is a misdemeanor.

37 SEC. 8. Section 12076 of the Penal Code is amended to read:

38 12076. (a) (1) Before January 1, 1998, the Department of
39 Justice shall determine the method by which a dealer shall submit

1 firearm purchaser information to the department and the
2 information shall be in one of the following formats:

3 (A) Submission of the register described in Section 12077.

4 (B) Electronic or telephonic transfer of the information contained
5 in the register described in Section 12077.

6 (2) On or after January 1, 1998, electronic or telephonic transfer,
7 including voice or facsimile transmission, shall be the exclusive
8 means by which purchaser information is transmitted to the
9 department.

10 (3) On or after January 1, 2003, except as permitted by the
11 department, electronic transfer shall be the exclusive means by
12 which information is transmitted to the department. Telephonic
13 transfer shall not be permitted for information regarding sales of
14 any firearms.

15 (b) (1) Where the register is used, the purchaser of any firearm
16 shall be required to present clear evidence of his or her identity
17 and age, as defined in Section 12071, to the dealer, and the dealer
18 shall require him or her to sign his or her current legal name and
19 affix his or her residence address and date of birth to the register
20 in quadruplicate. The salesperson shall affix his or her signature
21 to the register in quadruplicate as a witness to the signature and
22 identification of the purchaser. Any person furnishing a fictitious
23 name or address or knowingly furnishing any incorrect information
24 or knowingly omitting any information required to be provided
25 for the register and any person violating any provision of this
26 section is guilty of a misdemeanor, provided however, that any
27 person who is prohibited from obtaining a firearm pursuant to
28 Section 12021 or 12021.1 of this code, or Section 8100 or 8103
29 of the Welfare and Institutions Code who knowingly furnishes a
30 fictitious name or address or knowingly furnishes any incorrect
31 information or knowingly omits any information required to be
32 provided for the register shall be punished by imprisonment in a
33 county jail not exceeding one year or imprisonment in the state
34 prison for a term of 8, 12, or 18 months.

35 (2) The original of the register shall be retained by the dealer
36 in consecutive order. Each book of 50 originals shall become the
37 permanent register of transactions that shall be retained for not
38 less than three years from the date of the last transaction and shall
39 be available for the inspection of any peace officer, Department
40 of Justice employee designated by the Attorney General, or agent

1 of the federal Bureau of Alcohol, Tobacco, Firearms and
2 Explosives upon the presentation of proper identification, but until
3 July 1, 2012, no information shall be compiled therefrom regarding
4 the purchasers or other transferees of firearms that are not
5 handguns.

6 (3) Two copies of the original sheet of the register, on the date
7 of the application to purchase, shall be placed in the mail, postage
8 prepaid, and properly addressed to the Department of Justice.

9 (4) If requested, a photocopy of the original shall be provided
10 to the purchaser by the dealer.

11 (5) If the transaction is a private party transfer conducted
12 pursuant to Section 12082, a photocopy of the original shall be
13 provided to the seller or purchaser by the dealer, upon request.
14 The dealer shall redact all of the purchaser's personal information,
15 as required pursuant to paragraph (1) of subdivision (b) and
16 paragraph (1) of subdivision (c) of Section 12077, from the seller's
17 copy, and the seller's personal information from the purchaser's
18 copy.

19 (c) (1) Where the electronic or telephonic transfer of applicant
20 information is used, the purchaser shall be required to present clear
21 evidence of his or her identity and age, as defined in Section 12071,
22 to the dealer, and the dealer shall require him or her to sign his or
23 her current legal name to the record of electronic or telephonic
24 transfer. The salesperson shall affix his or her signature to the
25 record of electronic or telephonic transfer as a witness to the
26 signature and identification of the purchaser. Any person furnishing
27 a fictitious name or address or knowingly furnishing any incorrect
28 information or knowingly omitting any information required to be
29 provided for the electronic or telephonic transfer and any person
30 violating any provision of this section is guilty of a misdemeanor,
31 provided however, that any person who is prohibited from
32 obtaining a firearm pursuant to Section 12021 or 12021.1 of this
33 code, or Section 8100 or 8103 of the Welfare and Institutions Code
34 who knowingly furnishes a fictitious name or address or knowingly
35 furnishes any incorrect information or knowingly omits any
36 information required to be provided for the register shall be
37 punished by imprisonment in a county jail not exceeding one year
38 or imprisonment in the state prison for a term of 8, 12, or 18
39 months.

1 (2) The record of applicant information shall be transmitted to
2 the Department of Justice by electronic or telephonic transfer on
3 the date of the application to purchase.

4 (3) The original of each record of electronic or telephonic
5 transfer shall be retained by the dealer in consecutive order. Each
6 original shall become the permanent record of the transaction that
7 shall be retained for not less than three years from the date of the
8 last transaction and shall be provided for the inspection of any
9 peace officer, Department of Justice employee designated by the
10 Attorney General, or agent of the federal Bureau of Alcohol,
11 Tobacco, Firearms and Explosives upon the presentation of proper
12 identification, but until July 1, 2012, no information shall be
13 compiled therefrom regarding the purchasers or other transferees
14 of firearms that are not handguns.

15 (4) If requested, a copy of the record of electronic or telephonic
16 transfer shall be provided to the purchaser by the dealer.

17 (5) If the transaction is a private party transfer conducted
18 pursuant to Section 12082, a copy shall be provided to the seller
19 or purchaser by the dealer, upon request. The dealer shall redact
20 all of the purchaser's personal information, as required pursuant
21 to paragraph (1) of subdivision (b) and paragraph (1) of subdivision
22 (c) of Section 12077, from the seller's copy, and the seller's
23 personal information from the purchaser's copy.

24 (d) (1) The department shall examine its records, as well as
25 those records that it is authorized to request from the State
26 Department of Mental Health pursuant to Section 8104 of the
27 Welfare and Institutions Code, in order to determine if the
28 purchaser is a person described in subparagraph (A) of paragraph
29 (9) of subdivision (a) of Section 12072, or is prohibited by state
30 or federal law from possessing, receiving, owning, or purchasing
31 a firearm.

32 (2) To the extent that funding is available, the Department of
33 Justice may participate in the National Instant Criminal Background
34 Check System (NICS), as described in subsection (t) of Section
35 922 of Title 18 of the United States Code, and, if that participation
36 is implemented, shall notify the dealer and the chief of the police
37 department of the city or city and county in which the sale was
38 made, or if the sale was made in a district in which there is no
39 municipal police department, the sheriff of the county in which

1 the sale was made, that the purchaser is a person prohibited from
2 acquiring a firearm under federal law.

3 (3) If the department determines that the purchaser is prohibited
4 by state or federal law from possessing, receiving, owning, or
5 purchasing a firearm or is a person described in subparagraph (A)
6 of paragraph (9) of subdivision (a) of Section 12072, it shall
7 immediately notify the dealer and the chief of the police department
8 of the city or city and county in which the sale was made, or if the
9 sale was made in a district in which there is no municipal police
10 department, the sheriff of the county in which the sale was made,
11 of that fact.

12 (4) If the department determines that the copies of the register
13 submitted to it pursuant to paragraph (3) of subdivision (b) contain
14 any blank spaces or inaccurate, illegible, or incomplete information,
15 preventing identification of the purchaser or the handgun or other
16 firearm to be purchased, or if any fee required pursuant to
17 subdivision (e) is not submitted by the dealer in conjunction with
18 submission of copies of the register, the department may notify
19 the dealer of that fact. Upon notification by the department, the
20 dealer shall submit corrected copies of the register to the
21 department, or shall submit any fee required pursuant to subdivision
22 (e), or both, as appropriate and, if notification by the department
23 is received by the dealer at any time prior to delivery of the firearm
24 to be purchased, the dealer shall withhold delivery until the
25 conclusion of the waiting period described in Sections 12071 and
26 12072.

27 (5) If the department determines that the information transmitted
28 to it pursuant to subdivision (c) contains inaccurate or incomplete
29 information preventing identification of the purchaser or the firearm
30 to be purchased, or if the fee required pursuant to subdivision (e)
31 is not transmitted by the dealer in conjunction with transmission
32 of the electronic or telephonic record, the department may notify
33 the dealer of that fact. Upon notification by the department, the
34 dealer shall transmit corrections to the record of electronic or
35 telephonic transfer to the department, or shall transmit any fee
36 required pursuant to subdivision (e), or both, as appropriate, and
37 if notification by the department is received by the dealer at any
38 time prior to delivery of the firearm to be purchased, the dealer
39 shall withhold delivery until the conclusion of the waiting period
40 described in Sections 12071 and 12072.

1 (e) The Department of Justice may require the dealer to charge
2 each firearm purchaser a fee not to exceed fourteen dollars (\$14),
3 except that the fee may be increased at a rate not to exceed any
4 increase in the California Consumer Price Index as compiled and
5 reported by the Department of Industrial Relations. The fee shall
6 be no more than is necessary to fund the following:

7 (1) (A) The department for the cost of furnishing this
8 information.

9 (B) The department for the cost of meeting its obligations under
10 paragraph (2) of subdivision (b) of Section 8100 of the Welfare
11 and Institutions Code.

12 (2) Local mental health facilities for state-mandated local costs
13 resulting from the reporting requirements imposed by Section 8103
14 of the Welfare and Institutions Code.

15 (3) The State Department of Mental Health for the costs resulting
16 from the requirements imposed by Section 8104 of the Welfare
17 and Institutions Code.

18 (4) Local mental hospitals, sanitariums, and institutions for
19 state-mandated local costs resulting from the reporting
20 requirements imposed by Section 8105 of the Welfare and
21 Institutions Code.

22 (5) Local law enforcement agencies for state-mandated local
23 costs resulting from the notification requirements set forth in
24 subdivision (a) of Section 6385 of the Family Code.

25 (6) Local law enforcement agencies for state-mandated local
26 costs resulting from the notification requirements set forth in
27 subdivision (c) of Section 8105 of the Welfare and Institutions
28 Code.

29 (7) For the actual costs associated with the electronic or
30 telephonic transfer of information pursuant to subdivision (c).

31 (8) The Department of Food and Agriculture for the costs
32 resulting from the notification provisions set forth in Section 5343.5
33 of the Food and Agricultural Code.

34 (9) The department for the costs associated with subparagraph
35 (D) of paragraph (2) of subdivision (f) of Section 12072.

36 (10) The department for the costs associated with funding
37 Department of Justice firearms-related regulatory and enforcement
38 activities related to the sale, purchase, loan, or transfer of firearms
39 pursuant to this chapter.

1 The fee established pursuant to this subdivision shall not exceed
2 the sum of the actual processing costs of the department, the
3 estimated reasonable costs of the local mental health facilities for
4 complying with the reporting requirements imposed by paragraph
5 (2) of this subdivision, the costs of the State Department of Mental
6 Health for complying with the requirements imposed by paragraph
7 (3) of this subdivision, the estimated reasonable costs of local
8 mental hospitals, sanitariums, and institutions for complying with
9 the reporting requirements imposed by paragraph (4) of this
10 subdivision, the estimated reasonable costs of local law
11 enforcement agencies for complying with the notification
12 requirements set forth in subdivision (a) of Section 6385 of the
13 Family Code, the estimated reasonable costs of local law
14 enforcement agencies for complying with the notification
15 requirements set forth in subdivision (c) of Section 8105 of the
16 Welfare and Institutions Code imposed by paragraph (6) of this
17 subdivision, the estimated reasonable costs of the Department of
18 Food and Agriculture for the costs resulting from the notification
19 provisions set forth in Section 5343.5 of the Food and Agricultural
20 Code, the estimated reasonable costs of the department for the
21 costs associated with subparagraph (D) of paragraph (2) of
22 subdivision (f) of Section 12072, and the estimated reasonable
23 costs of department firearms-related regulatory and enforcement
24 activities related to the sale, purchase, loan, or transfer of firearms
25 pursuant to this chapter.

26 (f) (1) The Department of Justice may charge a fee sufficient
27 to reimburse it for each of the following but not to exceed fourteen
28 dollars (\$14), except that the fee may be increased at a rate not to
29 exceed any increase in the California Consumer Price Index as
30 compiled and reported by the Department of Industrial Relations:

31 (A) For the actual costs associated with the preparation, sale,
32 processing, and filing of forms or reports required or utilized
33 pursuant to Section 12078.

34 (B) For the actual processing costs associated with the
35 submission of a Dealers' Record of Sale to the department.

36 (C) For the actual costs associated with the preparation, sale,
37 processing, and filing of reports utilized pursuant to subdivision
38 (l) of Section 12078 or paragraph (18) of subdivision (b) of Section
39 12071, or clause (i) of subparagraph (A) of paragraph (2) of

1 subdivision (f) of Section 12072, or paragraph (3) of subdivision
2 (f) of Section 12072.

3 (D) For the actual costs associated with the electronic or
4 telephonic transfer of information pursuant to subdivision (c).

5 (2) If the department charges a fee pursuant to subparagraph
6 (B) of paragraph (1) of this subdivision, it shall be charged in the
7 same amount to all categories of transaction that are within that
8 subparagraph.

9 (3) Any costs incurred by the Department of Justice to
10 implement this subdivision shall be reimbursed from fees collected
11 and charged pursuant to this subdivision. No fees shall be charged
12 to the dealer pursuant to subdivision (e) for implementing this
13 subdivision.

14 (g) All money received by the department pursuant to this
15 section shall be deposited in the Dealers' Record of Sale Special
16 Account of the General Fund, which is hereby created, to be
17 available, upon appropriation by the Legislature, for expenditure
18 by the department to offset the costs incurred pursuant to this
19 section, paragraph (1) and subparagraph (D) of paragraph (2) of
20 subdivision (f) of Section 12072, Sections 12083 and 12099,
21 subdivision (c) of Section 12131, Sections 12234, 12289, and
22 12289.5, and subdivisions (f) and (g) of Section 12305.

23 (h) Where the electronic or telephonic transfer of applicant
24 information is used, the department shall establish a system to be
25 used for the submission of the fees described in subdivision (e) to
26 the department.

27 (i) (1) Until July 1, 2012, only one fee shall be charged pursuant
28 to this section for a single transaction on the same date for the sale
29 of any number of firearms that are not handguns or for the taking
30 of possession of those firearms.

31 (2) In a single transaction on the same date for the delivery of
32 any number of firearms that are handguns, and commencing July
33 1, 2012, for any firearm, the department shall charge a reduced
34 fee pursuant to this section for the second and subsequent firearms
35 that are part of that transaction.

36 (j) Only one fee shall be charged pursuant to this section for a
37 single transaction on the same date for taking title or possession
38 of any number of firearms pursuant to paragraph (18) of
39 subdivision (b) of Section 12071 or subdivision (c) or (i) of Section
40 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than handguns, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

SEC. 9. Section 12077 of the Penal Code is amended to read:

12077. (a) The Department of Justice shall prescribe the form of the register and the record of electronic transfer pursuant to Section 12074.

(b) (1) Until July 1, 2012, for handguns, and thereafter for all firearms, information contained in the register or record of electronic transfer shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, dealer waiting period exemption pursuant to subdivision (n) of Section 12078, dangerous weapons permitholder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to subdivision (t) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, for transactions occurring prior to January 1, 2003, the purchaser's basic firearms safety certificate number issued pursuant to Sections 12805 and 12809, for transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 8 (commencing with Section 12800), manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), any identification number or mark assigned to the firearm pursuant to Section 12092, provided however, that if the firearm is not a handgun and does not have a

1 serial number, identification number, or mark assigned to it, a
2 notation as to that fact, the caliber, type of firearm, if the firearm
3 is new or used, barrel length, color of the firearm, full name of
4 purchaser, purchaser's complete date of birth, purchaser's local
5 address, if current address is temporary, complete permanent
6 address of purchaser, identification of purchaser, purchaser's place
7 of birth (state or country), purchaser's complete telephone number,
8 purchaser's occupation, purchaser's sex, purchaser's physical
9 description, all legal names and aliases ever used by the purchaser,
10 yes or no answer to questions that prohibit purchase including, but
11 not limited to, conviction of a felony as described in Section 12021
12 or an offense described in Section 12021.1, the purchaser's status
13 as a person described in Section 8100 of the Welfare and
14 Institutions Code, whether the purchaser is a person who has been
15 adjudicated by a court to be a danger to others or found not guilty
16 by reason of insanity, whether the purchaser is a person who has
17 been found incompetent to stand trial or placed under
18 conservatorship by a court pursuant to Section 8103 of the Welfare
19 and Institutions Code, signature of purchaser, signature of
20 salesperson (as a witness to the purchaser's signature),
21 salesperson's certificate of eligibility number if he or she has
22 obtained a certificate of eligibility, name and complete address of
23 the dealer or firm selling the firearm as shown on the dealer's
24 license, the establishment number, if assigned, the dealer's
25 complete business telephone number, any information required by
26 Section 12082, any information required to determine whether or
27 not paragraph (6) of subdivision (c) of Section 12072 applies, and
28 a statement of the penalties for any person signing a fictitious name
29 or address or for knowingly furnishing any incorrect information
30 or for knowingly omitting any information required to be provided
31 for the register.

32 (2) The purchaser shall provide his or her right thumbprint on
33 the register in a manner prescribed by the department. No exception
34 to this requirement shall be permitted except by regulations adopted
35 by the department.

36 (3) The firearms dealer shall record on the register or record of
37 electronic transfer the date that the firearm is delivered.

38 (c) (1) For firearms other than handguns, information contained
39 in the register or record of electronic transfer shall be the date and
40 time of sale, peace officer exemption status pursuant to subdivision

(a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, dangerous weapons permitholder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to paragraph (1) of subdivision (t) of Section 12078, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), salesperson's certificate of eligibility number if he or she has obtained a certificate of eligibility, name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) The purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(3) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered.

(4) This subdivision shall become inoperative on July 1, 2012.

(d) Where the register is used, the following shall apply:

1 (1) Dealers shall use ink to complete each document.

2 (2) The dealer or salesperson making a sale shall ensure that all
3 information is provided legibly. The dealer and salespersons shall
4 be informed that incomplete or illegible information will delay
5 sales.

6 (3) Each dealer shall be provided instructions regarding the
7 procedure for completion of the form and routing of the form.
8 Dealers shall comply with these instructions which shall include
9 the information set forth in this subdivision.

10 (4) One firearm transaction shall be reported on each record of
11 sale document.

12 (e) The dealer or salesperson making a sale shall ensure that all
13 required information has been obtained from the purchaser. The
14 dealer and all salespersons shall be informed that incomplete
15 information will delay sales.

16 (f) The purchaser's name, date of birth, and driver's license or
17 identification number shall be obtained electronically from the
18 magnetic strip on the purchaser's driver's license or identification
19 and shall not be supplied by any other means except as authorized
20 by the department. This requirement shall not apply in either of
21 the following cases:

22 (1) The purchaser's identification consists of a military
23 identification card.

24 (2) Due to technical limitations, the magnetic stripe reader is
25 unable to obtain the required information from the purchaser's
26 identification. In those circumstances, the firearms dealer shall
27 obtain a photocopy of the identification as proof of compliance.

28 (3) In the event that the dealer has reported to the department
29 that the dealer's equipment has failed, information pursuant to this
30 subdivision shall be obtained by an alternative method to be
31 determined by the department.

32 (g) As used in this section, the following definitions shall
33 control:

34 (1) "Purchaser" means the purchaser or transferee of a firearm
35 or the person being loaned a firearm.

36 (2) "Purchase" means the purchase, loan, or transfer of a firearm.

37 (3) "Sale" means the sale, loan, or transfer of a firearm.

38 SEC. 10. Section 12077.5 of the Penal Code is amended to
39 read:

1 12077.5. (a) An individual may request that the Department
2 of Justice perform a firearms eligibility check for that individual.
3 The applicant requesting the eligibility check shall provide the
4 *personal* information required by subdivision (b) or (c) of Section
5 12077, as applicable, *but not information regarding any firearm*,
6 to the department, in an application specified by the department.

7 (b) The department shall charge a fee of twenty dollars (\$20)
8 for performing the eligibility check authorized by this section, but
9 not to exceed the actual processing costs of the department. After
10 the department establishes fees sufficient to reimburse the
11 department for processing costs, fees charged may increase at a
12 rate not to exceed the legislatively approved cost-of-living
13 adjustment for the department's budget or as otherwise increased
14 through the Budget Act.

15 (c) An applicant for the eligibility check pursuant to subdivision
16 (a) shall complete the application, have it notarized by any licensed
17 California Notary Public, and submit it by mail to the department.
18 Upon receipt of a notarized application and fee, the department
19 shall do all of the following:

20 (1) Examine its records, and the records it is authorized to
21 request from the State Department of Mental Health pursuant to
22 Section 8104 of the Welfare and Institutions Code, to determine
23 if the purchaser is prohibited by state or federal law from
24 possessing, receiving, owning, or purchasing a firearm.

25 (2) Notify the applicant by mail of its determination of whether
26 the applicant is prohibited by state or federal law from possessing,
27 receiving, owning, or purchasing a firearm. The department's
28 notification shall state either "eligible to possess firearms as of the
29 date the check was completed" or "ineligible to possess firearms
30 as of the date the check was completed."

31 (d) If the department determines that the information submitted
32 to it in the application contains any blank spaces, or inaccurate,
33 illegible, or incomplete information, preventing identification of
34 the applicant, or if the required fee is not submitted, the department
35 shall not be required to perform the firearms eligibility check.

36 (e) The department shall make applications to conduct a firearms
37 eligibility check as described in this section available to licensed
38 firearms dealers and on the department's Web site.

1 (f) The department shall be immune from any liability arising
2 out of the performance of the firearms eligibility check, or any
3 reliance upon the firearms eligibility check.

4 (g) No person or agency may require or request another person
5 to obtain a firearms eligibility check or notification of a firearms
6 eligibility check pursuant to this section. A violation of this
7 subdivision is a misdemeanor.

8 (h) The department shall include on the application specified
9 in subdivision (a) and the notification of eligibility specified in
10 subdivision (c) the following statements:

11 “No person or agency may require or request another person to
12 obtain a firearms eligibility check or notification of firearms
13 eligibility check pursuant to Section 12077.5 of the Penal Code.
14 A violation of these provisions is a misdemeanor.”

15 “If the applicant for a firearms eligibility check purchases,
16 transfers, or receives a firearm through a licensed dealer as required
17 by law, a waiting period and background check are both required.”

18 SEC. 11. Section 12078 of the Penal Code is amended to read:

19 12078. (a) (1) The waiting periods described in Sections 12071
20 and 12072 shall not apply to the deliveries, transfers, or sales of
21 firearms made to persons properly identified as full-time paid peace
22 officers as defined in Chapter 4.5 (commencing with Section 830)
23 of Title 3 of Part 2, provided that the peace officers are authorized
24 by their employer to carry firearms while in the performance of
25 their duties. Proper identification is defined as verifiable written
26 certification from the head of the agency by which the purchaser
27 or transferee is employed, identifying the purchaser or transferee
28 as a peace officer who is authorized to carry firearms while in the
29 performance of his or her duties, and authorizing the purchase or
30 transfer. The certification shall be delivered to the dealer at the
31 time of purchase or transfer and the purchaser or transferee shall
32 identify himself or herself as the person authorized in the
33 certification. The dealer shall keep the certification with the record
34 of sale. On the date that the delivery, sale, or transfer is made, the
35 dealer delivering the firearm shall transmit to the Department of
36 Justice an electronic or telephonic report of the transaction as is
37 indicated in subdivision (b) or (c) of Section 12077.

38 (2) Subdivision (b) of Section 12801 and the preceding
39 provisions of this article do not apply to deliveries, transfers, or
40 sales of firearms made to authorized law enforcement

1 representatives of cities, counties, cities and counties, or state or
2 federal governments for exclusive use by those governmental
3 agencies if, prior to the delivery, transfer, or sale of these firearms,
4 written authorization from the head of the agency authorizing the
5 transaction is presented to the person from whom the purchase,
6 delivery, or transfer is being made. Proper written authorization
7 is defined as verifiable written certification from the head of the
8 agency by which the purchaser or transferee is employed,
9 identifying the employee as an individual authorized to conduct
10 the transaction, and authorizing the transaction for the exclusive
11 use of the agency by which he or she is employed. Within 10 days
12 of the date a handgun, and commencing July 1, 2012, any firearm,
13 is acquired by the agency, a record of the same shall be entered as
14 an institutional weapon into the Automated Firearms System (AFS)
15 via the California Law Enforcement Telecommunications System
16 (CLETS) by the law enforcement or state agency. Those agencies
17 without access to AFS shall arrange with the sheriff of the county
18 in which the agency is located to input this information via this
19 system.

20 (3) Subdivision (b) of Section 12801 and the preceding
21 provisions of this article do not apply to the loan of a firearm made
22 by an authorized law enforcement representative of a city, county,
23 or city and county, or the state or federal government to a peace
24 officer employed by that agency and authorized to carry a firearm
25 for the carrying and use of that firearm by that peace officer in the
26 course and scope of his or her duties.

27 (4) Subdivision (b) of Section 12801 and the preceding
28 provisions of this article do not apply to the delivery, sale, or
29 transfer of a firearm by a law enforcement agency to a peace officer
30 pursuant to Section 10334 of the Public Contract Code. Within 10
31 days of the date that a handgun, and commencing July 1, 2012,
32 any firearm, is sold, delivered, or transferred pursuant to Section
33 10334 of the Public Contract Code to that peace officer, the name
34 of the officer and the make, model, serial number, and other
35 identifying characteristics of the firearm being sold, transferred,
36 or delivered shall be entered into the Automated Firearms System
37 (AFS) via the California Law Enforcement Telecommunications
38 System (CLETS) by the law enforcement or state agency that sold,
39 transferred, or delivered the firearm. Those agencies without access

1 to AFS shall arrange with the sheriff of the county in which the
2 agency is located to input this information via this system.

3 (5) Subdivision (b) of Section 12801 and the preceding
4 provisions of this article do not apply to the delivery, sale, or
5 transfer of a firearm by a law enforcement agency to a retiring
6 peace officer who is authorized to carry a firearm pursuant to
7 Section 12027.1. Within 10 days of the date that a handgun, and
8 commencing July 1, 2012, any firearm, is sold, delivered, or
9 transferred to that retiring peace officer, the name of the officer
10 and the make, model, serial number, and other identifying
11 characteristics of the firearm being sold, transferred, or delivered
12 shall be entered into the Automated Firearms System (AFS) via
13 the California Law Enforcement Telecommunications System
14 (CLETS) by the law enforcement or state agency that sold,
15 transferred, or delivered the firearm. Those agencies without access
16 to AFS shall arrange with the sheriff of the county in which the
17 agency is located to input this information via this system.

18 (6) Subdivision (d) of Section 12072 and subdivision (b) of
19 Section 12801 do not apply to sales, deliveries, or transfers of
20 firearms to authorized representatives of cities, cities and counties,
21 counties, or state or federal governments for those governmental
22 agencies where the entity is acquiring the weapon as part of an
23 authorized, voluntary program where the entity is buying or
24 receiving weapons from private individuals. Any weapons acquired
25 pursuant to this paragraph shall be disposed of pursuant to the
26 applicable provisions of Section 12028 or 12032.

27 (7) Subdivision (d) of Section 12072 and subdivision (b) of
28 Section 12801 shall not apply to the sale, loan, delivery, or transfer
29 of a firearm made by an authorized law enforcement representative
30 of a city, county, city and county, state, or the federal government
31 to any public or private nonprofit historical society, museum, or
32 institutional collection or the purchase or receipt of that firearm
33 by that public or private nonprofit historical society, museum, or
34 institutional collection if all of the following conditions are met:

35 (A) The entity receiving the firearm is open to the public.

36 (B) The firearm prior to delivery is deactivated or rendered
37 inoperable.

38 (C) The firearm is not subject to Section 12028, 12028.5, 12030,
39 or 12032.

1 (D) The firearm is not prohibited by other provisions of law
2 from being sold, delivered, or transferred to the public at large.

3 (E) Prior to delivery, the entity receiving the firearm submits a
4 written statement to the law enforcement representative stating
5 that the firearm will not be restored to operating condition, and
6 will either remain with that entity, or if subsequently disposed of,
7 will be transferred in accordance with the applicable provisions
8 of this article and, if applicable, Section 12801.

9 (F) Within 10 days of the date that the firearm is sold, loaned,
10 delivered, or transferred to that entity, the name of the government
11 entity delivering the firearm, and the make, model, serial number,
12 and other identifying characteristics of the firearm and the name
13 of the person authorized by the entity to take possession of the
14 firearm shall be reported to the department in a manner prescribed
15 by the department.

16 (G) In the event of a change in the status of the designated
17 representative, the entity shall notify the department of a new
18 representative within 30 days.

19 (8) Subdivision (d) of Section 12072 and subdivision (b) of
20 Section 12801 shall not apply to the sale, loan, delivery, or transfer
21 of a firearm made by any person other than a representative of an
22 authorized law enforcement agency to any public or private
23 nonprofit historical society, museum, or institutional collection if
24 all of the following conditions are met:

25 (A) The entity receiving the firearm is open to the public.

26 (B) The firearm is deactivated or rendered inoperable prior to
27 delivery.

28 (C) The firearm is not of a type prohibited from being sold,
29 delivered, or transferred to the public.

30 (D) Prior to delivery, the entity receiving the firearm submits a
31 written statement to the person selling, loaning, or transferring the
32 firearm stating that the firearm will not be restored to operating
33 condition, and will either remain with that entity, or if subsequently
34 disposed of, will be transferred in accordance with the applicable
35 provisions of this article and, if applicable, Section 12801.

36 (E) If title to a handgun, and commencing July 1, 2012, any
37 firearm, is being transferred to the public or private nonprofit
38 historical society, museum, or institutional collection, then the
39 designated representative of that public or private historical society,
40 museum, or institutional collection, within 30 days of taking

1 possession of that firearm, shall forward by prepaid mail or deliver
2 in person to the Department of Justice, a single report signed by
3 both parties to the transaction, that includes information identifying
4 the person representing that public or private historical society,
5 museum, or institutional collection, how title was obtained and
6 from whom, and a description of the firearm in question, along
7 with a copy of the written statement referred to in subparagraph
8 (D). The report forms that are to be completed pursuant to this
9 paragraph shall be provided by the Department of Justice.

10 (F) In the event of a change in the status of the designated
11 representative, the entity shall notify the department of a new
12 representative within 30 days.

13 (b) (1) Section 12071, subdivisions (c) and (d) of Section 12072,
14 and subdivision (b) of Section 12801 shall not apply to deliveries,
15 sales, or transfers of firearms between or to importers and
16 manufacturers of firearms licensed to engage in that business
17 pursuant to Chapter 44 (commencing with Section 921) of Title
18 18 of the United States Code and the regulations issued pursuant
19 thereto.

20 (2) Subdivision (b) of Section 12801 shall not apply to the
21 delivery, sale, or transfer of a handgun to a person licensed pursuant
22 to Section 12071, where the licensee is receiving the handgun in
23 the course and scope of his or her activities as a person licensed
24 pursuant to Section 12071.

25 (c) (1) Subdivision (d) of Section 12072 shall not apply to the
26 infrequent transfer of a firearm that is not a handgun by gift,
27 bequest, intestate succession, or other means by one individual to
28 another if both individuals are members of the same immediate
29 family. This paragraph shall become inoperative on July 1, 2012.

30 (2) Subdivision (d) of Section 12072 shall not apply to the
31 infrequent transfer of a handgun, and commencing July 1, 2012,
32 a firearm that is not a handgun, by gift, bequest, intestate
33 succession, or other means by one individual to another if both
34 individuals are members of the same immediate family and all of
35 the following conditions are met:

36 (A) The person to whom the firearm is transferred shall, within
37 30 days of taking possession of the firearm, forward by prepaid
38 mail or deliver in person to the Department of Justice, a report that
39 includes information concerning the individual taking possession
40 of the firearm, how title was obtained and from whom, and a

1 description of the firearm in question. The report forms that
2 individuals complete pursuant to this paragraph shall be provided
3 to them by the Department of Justice.

4 (B) The person taking title to the firearm shall first obtain a
5 handgun safety certificate, if the firearm is a handgun.

6 (C) The person receiving the firearm is 18 years of age or older.

7 (3) As used in this subdivision, “immediate family member”
8 means any one of the following relationships:

9 (A) Parent and child.

10 (B) Grandparent and grandchild.

11 (d) (1) Subdivision (d) of Section 12072 shall not apply to the
12 infrequent loan of firearms between persons who are personally
13 known to each other for any lawful purpose, if the loan does not
14 exceed 30 days in duration and, when the firearm is a handgun,
15 the individual being loaned the handgun has a valid handgun safety
16 certificate.

17 (2) Subdivision (d) of Section 12072, and subdivision (b) of
18 Section 12801 shall not apply to the loan of a firearm where all of
19 the following conditions exist:

20 (A) The person loaning the firearm is at all times within the
21 presence of the person being loaned the firearm.

22 (B) The loan is for a lawful purpose.

23 (C) The loan does not exceed three days in duration.

24 (D) The individual receiving the firearm is not prohibited by
25 state or federal law from possessing, receiving, owning, or
26 purchasing a firearm.

27 (E) The person loaning the firearm is 18 years of age or older.

28 (F) The person being loaned the firearm is 18 years of age or
29 older.

30 (e) (1) Section 12071, subdivisions (c) and (d) and paragraph
31 (1) of subdivision (f) of Section 12072, and subdivision (b) of
32 Section 12801 shall not apply to the delivery of a firearm to a
33 gunsmith for service or repair, or to the return of the firearm to its
34 owner by the gunsmith, or to the delivery of a firearm by a
35 gunsmith to a person licensed pursuant to Chapter 44 (commencing
36 with Section 921) of Title 18 of the United States Code for service
37 or repair and the return of the firearm to the gunsmith.

38 (2) Paragraph (1) of subdivision (f) of Section 12072 shall not
39 apply to the delivery, sale, or transfer of any firearm in any of the
40 following circumstances:

1 (A) Where the transferor and the transferee are the same person
2 or corporation.

3 (B) Where the transfer is to or from a person who has a valid
4 entertainment firearms permit under Section 12081 and the transfer
5 involves the loan or return of firearms used solely as props in
6 television, film, or theatrical productions.

7 (f) Subdivision (d) of Section 12072 and subdivision (b) of
8 Section 12801 shall not apply to the sale, delivery, or transfer of
9 firearms by persons who reside in this state to persons who reside
10 outside this state who are licensed pursuant to Chapter 44
11 (commencing with Section 921) of Title 18 of the United States
12 Code and the regulations issued pursuant thereto, if the sale,
13 delivery, or transfer is in accordance with Chapter 44 (commencing
14 with Section 921) of Title 18 of the United States Code and the
15 regulations issued pursuant thereto.

16 (g) (1) Subdivision (d) of Section 12072 shall not apply to the
17 infrequent sale or transfer of a firearm, other than a handgun, at
18 auctions or similar events conducted by nonprofit mutual or public
19 benefit corporations organized pursuant to the Corporations Code.

20 As used in this paragraph, the term “infrequent” shall not be
21 construed to prohibit different local chapters of the same nonprofit
22 corporation from conducting auctions or similar events, provided
23 the individual local chapter conducts the auctions or similar events
24 infrequently. It is the intent of the Legislature that different local
25 chapters, representing different localities, be entitled to invoke the
26 exemption created by this paragraph, notwithstanding the frequency
27 with which other chapters of the same nonprofit corporation may
28 conduct auctions or similar events.

29 (2) Subdivision (d) of Section 12072 shall not apply to the
30 transfer of a firearm other than a handgun, if the firearm is donated
31 for an auction or similar event described in paragraph (1) and the
32 firearm is delivered to the nonprofit corporation immediately
33 preceding, or contemporaneous with, the auction or similar event.

34 (3) The waiting period described in Sections 12071 and 12072
35 shall not apply to a dealer who delivers a firearm other than a
36 handgun at an auction or similar event described in paragraph (1),
37 as authorized by subparagraph (C) of paragraph (1) of subdivision
38 (b) of Section 12071. Within two business days of completion of
39 the application to purchase, the dealer shall forward by prepaid
40 mail to the Department of Justice a report of the same as is

1 indicated in subdivision (b) or (c) of Section 12077, as applicable.
2 If the electronic or telephonic transfer of applicant information is
3 used, within two business days of completion of the application
4 to purchase, the dealer delivering the firearm shall transmit to the
5 Department of Justice an electronic or telephonic report of the
6 same as is indicated in subdivision (b) or (c) of Section 12077, as
7 applicable.

8 (h) Subdivision (d) of Section 12072 and subdivision (b) of
9 Section 12801 shall not apply to the loan of a firearm to a person
10 18 years of age or older for the purposes of shooting at targets if
11 the loan occurs on the premises of a target facility that holds a
12 business or regulatory license or on the premises of any club or
13 organization organized for the purposes of practicing shooting at
14 targets upon established ranges, whether public or private, if the
15 firearm is at all times kept within the premises of the target range
16 or on the premises of the club or organization.

17 (i) (1) Subdivision (d) of Section 12072 shall not apply to a
18 person who takes title or possession of a firearm that is not a
19 handgun by operation of law if the person is not prohibited by state
20 or federal law from possessing, receiving, owning, or purchasing
21 a firearm. This paragraph shall become inoperative on July 1, 2012.

22 (2) Subdivision (d) of Section 12072 shall not apply to a person
23 who takes title or possession of a handgun, and commencing July
24 1, 2012, a firearm that is not a handgun, by operation of law if the
25 person is not prohibited by state or federal law from possessing,
26 receiving, owning, or purchasing a firearm and all of the following
27 conditions are met:

28 (A) If the person taking title or possession is neither a levying
29 officer as defined in Section 481.140, 511.060, or 680.210 of the
30 Code of Civil Procedure, nor a person who is receiving that firearm
31 pursuant to subparagraph (G), (I), or (J) of paragraph (2) of
32 subdivision (u), the person shall, within 30 days of taking
33 possession, forward by prepaid mail or deliver in person to the
34 Department of Justice, a report of information concerning the
35 individual taking possession of the firearm, how title or possession
36 was obtained and from whom, and a description of the firearm in
37 question. The reports that individuals complete pursuant to this
38 paragraph shall be provided to them by the department.

1 (B) If the person taking title or possession is receiving the
2 firearm pursuant to subparagraph (G) of paragraph (2) of
3 subdivision (u), the person shall do both of the following:

4 (i) Within 30 days of taking possession, forward by prepaid
5 mail or deliver in person to the department, a report of information
6 concerning the individual taking possession of the firearm, how
7 title or possession was obtained and from whom, and a description
8 of the firearm in question. The reports that individuals complete
9 pursuant to this paragraph shall be provided to them by the
10 department.

11 (ii) Prior to taking title or possession of the firearm, the person
12 shall obtain a handgun safety certificate, if the firearm is a handgun.

13 (C) Where the person receiving title or possession of the
14 handgun, and commencing July 1, 2012, a firearm that is not a
15 handgun, is a person described in subparagraph (I) of paragraph
16 (2) of subdivision (u), on the date that the person is delivered the
17 firearm, the name and other information concerning the person
18 taking possession of the firearm, how title or possession of the
19 firearm was obtained and from whom, and a description of the
20 firearm by make, model, serial number, and other identifying
21 characteristics shall be entered into the Automated Firearms System
22 (AFS) via the California Law Enforcement Telecommunications
23 System (CLETS) by the law enforcement or state agency that
24 transferred or delivered the firearm, provided however, that if the
25 firearm is not a handgun and does not have a serial number,
26 identification number, or identification mark assigned to it, that
27 fact shall be noted. Those agencies without access to AFS shall
28 arrange with the sheriff of the county in which the agency is located
29 to input this information via this system.

30 (D) Where the person receiving title or possession of the
31 handgun, and commencing July 1, 2012, a firearm that is not a
32 handgun, is a person described in subparagraph (J) of paragraph
33 (2) of subdivision (u), on the date that the person is delivered the
34 firearm, the name and other information concerning the person
35 taking possession of the firearm, how title or possession of the
36 firearm was obtained and from whom, and a description of the
37 firearm by make, model, serial number, and other identifying
38 characteristics shall be entered into the AFS via the CLETS by the
39 law enforcement or state agency that transferred or delivered the
40 firearm, provided, however, that if the firearm is not a handgun

1 and does not have a serial number, identification number, or
2 identification mark assigned to it, that fact shall be noted. Those
3 agencies without access to AFS shall arrange with the sheriff of
4 the county in which the agency is located to input this information
5 via this system. In addition, that law enforcement agency shall not
6 deliver that handgun to the person referred to in this subparagraph
7 unless, prior to the delivery of the same, the person presents proof
8 to the agency that he or she is the holder of a handgun safety
9 certificate.

10 (3) Subdivision (d) of Section 12072 shall not apply to a person
11 who takes possession of a firearm by operation of law in a
12 representative capacity who subsequently transfers ownership of
13 the firearm to himself or herself in his or her individual capacity.
14 In the case of a handgun, the individual shall obtain a handgun
15 safety certificate prior to transferring ownership to himself or
16 herself, or taking possession of a handgun in an individual capacity.

17 (j) Subdivision (d) of Section 12072 and subdivision (b) of
18 Section 12801 shall not apply to deliveries, transfers, or returns
19 of firearms made pursuant to Section 12021.3, 12028, 12028.5, or
20 12030.

21 (k) Section 12071, subdivision (c) of Section 12072, and
22 subdivision (b) of Section 12801 shall not apply to any of the
23 following:

24 (1) Until July 1, 2012, the delivery, sale, or transfer of unloaded
25 firearms that are not handguns by a dealer to another dealer upon
26 proof of compliance with the requirements of paragraph (1) of
27 subdivision (f) of Section 12072.

28 (2) The delivery, sale, or transfer of unloaded firearms by dealers
29 to persons who reside outside this state who are licensed pursuant
30 to Chapter 44 (commencing with Section 921) of Title 18 of the
31 United States Code and the regulations issued pursuant thereto.

32 (3) The delivery, sale, or transfer of unloaded firearms to a
33 wholesaler if the firearms are being returned to the wholesaler and
34 are intended as merchandise in the wholesaler's business.

35 (4) The delivery, sale, or transfer of unloaded firearms by one
36 dealer to another dealer if the firearms are intended as merchandise
37 in the receiving dealer's business upon proof of compliance with
38 the requirements of paragraph (1) of subdivision (f) of Section
39 12072.

1 (5) Until July 1, 2012, the delivery, sale, or transfer of an
2 unloaded firearm that is not a handgun by a dealer to himself or
3 herself.

4 (6) The loan of an unloaded firearm by a dealer who also
5 operates a target facility that holds a business or regulatory license
6 on the premises of the building designated in the license or whose
7 building designated in the license is on the premises of any club
8 or organization organized for the purposes of practicing shooting
9 at targets upon established ranges, whether public or private, to a
10 person at that target facility or that club or organization, if the
11 firearm is at all times kept within the premises of the target range
12 or on the premises of the club or organization.

13 (l) A person who is exempt from subdivision (d) of Section
14 12072 or is otherwise not required by law to report his or her
15 acquisition, ownership, or disposal of a handgun, and commencing
16 July 1, 2012, a firearm that is not a handgun, or who moves out of
17 this state with his or her handgun, and commencing July 1, 2012,
18 a firearm that is not a handgun, may submit a report of the same
19 to the Department of Justice in a format prescribed by the
20 department.

21 (m) Subdivision (d) of Section 12072 and subdivision (b) of
22 Section 12801 shall not apply to the delivery, sale, or transfer of
23 unloaded firearms to a wholesaler as merchandise in the
24 wholesaler's business by manufacturers or importers licensed to
25 engage in that business pursuant to Chapter 44 (commencing with
26 Section 921) of Title 18 of the United States Code and the
27 regulations issued pursuant thereto, or by another wholesaler, if
28 the delivery, sale, or transfer is made in accordance with Chapter
29 44 (commencing with Section 921) of Title 18 of the United States
30 Code.

31 (n) (1) The waiting period described in Section 12071 or 12072
32 shall not apply to the delivery, sale, or transfer of a handgun, and
33 commencing July 1, 2012, a firearm that is not a handgun, by a
34 dealer in either of the following situations:

35 (A) The dealer is delivering the firearm to another dealer and
36 it is not intended as merchandise in the receiving dealer's business.

37 (B) The dealer is delivering the firearm to himself or herself
38 and it is not intended as merchandise in his or her business.

39 (2) In order for this subdivision to apply, both of the following
40 shall occur:

1 (A) If the dealer is receiving the firearm from another dealer,
2 the dealer receiving the firearm shall present proof to the dealer
3 delivering the firearm that he or she is licensed pursuant to Section
4 12071 by complying with paragraph (1) of subdivision (f) of
5 Section 12072.

6 (B) Whether the dealer is delivering, selling, or transferring the
7 firearm to himself or herself or to another dealer, on the date that
8 the application to purchase is completed, the dealer delivering the
9 firearm shall forward by prepaid mail to the Department of Justice
10 a report of the same and the type of information concerning the
11 purchaser or transferee as is indicated in subdivision (b) of Section
12 12077. Where the electronic or telephonic transfer of applicant
13 information is used, on the date that the application to purchase is
14 completed, the dealer delivering the firearm shall transmit an
15 electronic or telephonic report of the same and the type of
16 information concerning the purchaser or transferee as is indicated
17 in subdivision (b) of Section 12077.

18 (c) Section 12071 and subdivisions (c) and (d) of Section 12072
19 shall not apply to the delivery, sale, or transfer of a firearm
20 regulated pursuant to Section 12020, Chapter 2 (commencing with
21 Section 12200), Chapter 2.3 (commencing with Section 12275),
22 or Chapter 2.5 (commencing with Section 12301), if the delivery,
23 sale, or transfer of that firearm is conducted in accordance with
24 the applicable provisions of Section 12020, Chapter 2 (commencing
25 with Section 12200), Chapter 2.3 (commencing with Section
26 12275), or Chapter 2.5 (commencing with Section 12301).

27 (p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of
28 Section 12072 shall not apply to the loan of a firearm that is not a
29 handgun to a minor, with the express permission of the parent or
30 legal guardian of the minor, if the loan does not exceed 30 days
31 in duration and is for a lawful purpose.

32 (2) Paragraph (3) of subdivision (a) of Section 12072,
33 subdivision (d) of Section 12072, and subdivision (b) of Section
34 12801 shall not apply to the loan of a handgun to a minor by a
35 person who is not the parent or legal guardian of the minor if all
36 of the following circumstances exist:

37 (A) The minor has the written consent of his or her parent or
38 legal guardian that is presented at the time of, or prior to the time
39 of, the loan, or is accompanied by his or her parent or legal
40 guardian at the time the loan is made.

1 (B) The minor is being loaned the firearm for the purpose of
2 engaging in a lawful, recreational sport, including, but not limited
3 to, competitive shooting, or agricultural, ranching, or hunting
4 activity, or a motion picture, television, or video production, or
5 entertainment or theatrical event, the nature of which involves the
6 use of a firearm.

7 (C) The duration of the loan does not exceed the amount of time
8 that is reasonably necessary to engage in the lawful, recreational
9 sport, including, but not limited to, competitive shooting, or
10 agricultural, ranching, or hunting activity, or a motion picture,
11 television, or video production, or entertainment or theatrical event,
12 the nature of which involves the use of a firearm.

13 (D) The duration of the loan does not, in any event, exceed 10
14 days.

15 (3) Paragraph (3) of subdivision (a), and subdivision (d), of
16 Section 12072, and subdivision (b) of Section 12801 shall not
17 apply to the loan of a handgun to a minor by his or her parent or
18 legal guardian if both of the following circumstances exist:

19 (A) The minor is being loaned the firearm for the purposes of
20 engaging in a lawful, recreational sport, including, but not limited
21 to, competitive shooting, or agricultural, ranching, or hunting
22 activity, or a motion picture, television, or video production, or
23 entertainment or theatrical event, the nature of which involves the
24 use of a firearm.

25 (B) The duration of the loan does not exceed the amount of time
26 that is reasonably necessary to engage in the lawful, recreational
27 sport, including, but not limited to, competitive shooting, or
28 agricultural, ranching, or hunting activity, or a motion picture,
29 television, or video production, or entertainment or theatrical event,
30 the nature of which involves the use of a firearm.

31 (4) Paragraph (3) of subdivision (a), and subdivision (d), of
32 Section 12072 shall not apply to the transfer or loan of a firearm
33 that is not a handgun to a minor by his or her parent or legal
34 guardian.

35 (5) Paragraph (3) of subdivision (a), and subdivision (d), of
36 Section 12072 shall not apply to the transfer or loan of a firearm
37 that is not a handgun to a minor by his or her grandparent who is
38 not the legal guardian of the minor if the transfer is done with the
39 express permission of the parent or legal guardian of the minor.

1 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of
2 Section 12072 shall not apply to the sale of a handgun if both of
3 the following requirements are satisfied:

4 (A) The sale is to a person who is at least 18 years of age.

5 (B) The firearm is an antique firearm as defined in paragraph
6 (16) of subsection (a) of Section 921 of Title 18 of the United
7 States Code.

8 (q) Subdivision (d) of Section 12072 shall not apply to the loan
9 of a firearm that is not a handgun to a licensed hunter for use by
10 that licensed hunter for a period of time not to exceed the duration
11 of the hunting season for which that firearm is to be used.

12 (r) The waiting period described in Section 12071 or 12072
13 shall not apply to the delivery, sale, or transfer of a firearm to the
14 holder of a special weapons permit issued by the Department of
15 Justice issued pursuant to Section 12095, 12230, 12250, or 12305.
16 On the date that the application to purchase is completed, the dealer
17 delivering the firearm shall transmit to the Department of Justice
18 an electronic or telephonic report of the same as is indicated in
19 subdivision (b) or (c), as applicable, of Section 12077.

20 (s) (1) Subdivision (d) of Section 12072 and subdivision (b) of
21 Section 12801 shall not apply to the infrequent loan of an unloaded
22 firearm by a person who is neither a dealer as defined in Section
23 12071 nor a federal firearms licensee pursuant to Chapter 44
24 (commencing with Section 921) of Title 18 of the United States
25 Code, to a person 18 years of age or older for use solely as a prop
26 in a motion picture, television, video, theatrical, or other
27 entertainment production or event.

28 (2) Subdivision (d), and paragraph (1) of subdivision (f), of
29 Section 12072, and subdivision (b) of Section 12801 shall not
30 apply to the loan of an unloaded firearm by a person who is not a
31 dealer as defined in Section 12071 but who is a federal firearms
32 licensee pursuant to Chapter 44 (commencing with Section 921)
33 of Title 18 of the United States Code, to a person who possesses
34 a valid entertainment firearms permit issued pursuant to Section
35 12081, for use solely as a prop in a motion picture, television,
36 video, theatrical, or other entertainment production or event. The
37 person loaning the firearm pursuant to this paragraph shall retain
38 a photocopy of the entertainment firearms permit as proof of
39 compliance with this requirement.

(3) Subdivision (b) of Section 12071, subdivision (c) of, and paragraph (1) of subdivision (f) of, Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm by a dealer as defined in Section 12071, to a person who possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. The dealer shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

(4) Subdivision (b) of Section 12071, subdivision (c) and paragraph (1) of subdivision (f) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm to a consultant-evaluator by a person licensed pursuant to Section 12071 if the loan does not exceed 45 days from the date of delivery. At the time of the loan, the consultant-evaluator shall provide the following information, which the dealer shall retain for two years:

(A) A photocopy of a valid, current, government-issued identification to determine the consultant-evaluator's identity, including, but not limited to, a California driver's license, identification card, or passport.

(B) A photocopy of the consultant-evaluator's valid, current certificate of eligibility.

(C) A letter from the person licensed as an importer, manufacturer, or dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, with whom the consultant-evaluator has a bona fide business relationship. The letter shall detail the bona fide business purposes for which the firearm is being loaned and confirm that the consultant-evaluator is being loaned the firearm as part of a bona fide business relationship.

(D) The signature of the consultant-evaluator on a form indicating the date the firearm is loaned and the last day the firearm may be returned.

(t) (1) The waiting periods described in Sections 12071 and 12072 shall not apply to the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor, by a dealer to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States

1 Code and the regulations issued pursuant thereto who has a current
2 certificate of eligibility issued to him or her by the Department of
3 Justice pursuant to Section 12071. On the date that the delivery,
4 sale, or transfer is made, the dealer delivering the firearm shall
5 transmit to the Department of Justice an electronic or telephonic
6 report of the transaction as is indicated in subdivision (b) or (c) of
7 Section 12077.

8 (2) Subdivision (d) and paragraph (1) of subdivision (f) of
9 Section 12072 shall not apply to the infrequent sale, loan, or
10 transfer of a firearm that is not a handgun, which is a curio or relic
11 manufactured at least 50 years prior to the current date, but not
12 including replicas thereof, as defined in Section 478.11 of Title
13 27 of the Code of Federal Regulations, or its successor.

14 (u) As used in this section:

15 (1) “Infrequent” has the same meaning as in paragraph (1) of
16 subdivision (c) of Section 12070.

17 (2) “A person taking title or possession of firearms by operation
18 of law” includes, but is not limited to, any of the following
19 instances wherein an individual receives title to, or possession of,
20 firearms:

21 (A) The executor or administrator of an estate if the estate
22 includes firearms.

23 (B) A secured creditor or an agent or employee thereof when
24 the firearms are possessed as collateral for, or as a result of, a
25 default under a security agreement under the Commercial Code.

26 (C) A levying officer, as defined in Section 481.140, 511.060,
27 or 680.260 of the Code of Civil Procedure.

28 (D) A receiver performing his or her functions as a receiver if
29 the receivership estate includes firearms.

30 (E) A trustee in bankruptcy performing his or her duties if the
31 bankruptcy estate includes firearms.

32 (F) An assignee for the benefit of creditors performing his or
33 her functions as an assignee, if the assignment includes firearms.

34 (G) A transmutation of property consisting of firearms pursuant
35 to Section 850 of the Family Code.

36 (H) Firearms passing to a surviving spouse pursuant to Chapter
37 1 (commencing with Section 13500) of Part 2 of Division 8 of the
38 Probate Code.

1 (I) Firearms received by the family of a police officer or deputy
2 sheriff from a local agency pursuant to Section 50081 of the
3 Government Code.

4 (J) The transfer of a firearm by a law enforcement agency to
5 the person who found the firearm where the delivery is to the
6 person as the finder of the firearm pursuant to Article 1
7 (commencing with Section 2080) of Chapter 4 of Division 3 of
8 the Civil Code.

9 SEC. 12. Section 12082 of the Penal Code is amended to read:

10 12082. (a) A person shall complete any sale, loan, or transfer
11 of a firearm through a person licensed pursuant to Section 12071
12 in accordance with this section in order to comply with subdivision
13 (d) of Section 12072. The seller or transferor or the person loaning
14 the firearm shall deliver the firearm to the dealer who shall retain
15 possession of that firearm. The dealer shall then deliver the firearm
16 to the purchaser or transferee or the person being loaned the
17 firearm, if it is not prohibited, in accordance with subdivision (c)
18 of Section 12072. If the dealer cannot legally deliver the firearm
19 to the purchaser or transferee or the person being loaned the
20 firearm, the dealer shall forthwith, without waiting for the
21 conclusion of the waiting period described in Sections 12071 and
22 12072, return the firearm to the transferor or seller or the person
23 loaning the firearm. The dealer shall not return the firearm to the
24 seller or transferor or the person loaning the firearm when to do
25 so would constitute a violation of subdivision (a) of Section 12072.
26 If the dealer cannot legally return the firearm to the transferor or
27 seller or the person loaning the firearm, then the dealer shall
28 forthwith deliver the firearm to the sheriff of the county or the
29 chief of police or other head of a municipal police department of
30 any city or city and county who shall then dispose of the firearm
31 in the manner provided by Sections 12028 and 12032. The
32 purchaser or transferee or person being loaned the firearm may be
33 required by the dealer to pay a fee not to exceed ten dollars (\$10)
34 per firearm, and no other fee may be charged by the dealer for a
35 sale, loan, or transfer of a firearm conducted pursuant to this
36 section, except for the applicable fees that may be charged pursuant
37 to Sections 12076, 12076.5, and 12088.9 and forwarded to the
38 Department of Justice, and the fees set forth in Section 12805.
39 Nothing in these provisions shall prevent a dealer from charging
40 a smaller fee. The dealer may not charge any additional fees.

(b) The Attorney General shall adopt regulations under this section to do all of the following:

(1) Allow the seller or transferor or the person loaning the firearm, and the purchaser or transferee or the person being loaned the firearm, to complete a sale, loan, or transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of those records.

(2) Record sufficient information for purposes of subdivision (c) of Section 11106 in the instance where a firearm is returned to a personal firearm importer because a sale or transfer of that firearm by the personal firearm importer could not be completed.

(3) Ensure that the register or record of electronic transfer shall state the name and address of the seller or transferor of the firearm or the person loaning the firearm and whether or not the person is a personal firearm importer in addition to any other information required by Section 12077.

(c) Notwithstanding any other provision of law, a dealer who does not sell, transfer, or keep an inventory of handguns is not required to process private party transfers of handguns.

~~(e)~~

(d) A violation of this section by a dealer is a misdemeanor.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.